

भारत का राजपत्र **The Gazette of India**

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सं० २] नई दिल्ली, शनिवार, जनवरी ११, १९६९/पौष २१, १८९०

No. 2] NEW DELHI, SATURDAY, JANUARY 11, 1969/PAUSA 21, 1890

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

भाग II—खण्ड ३—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

(रक्षा मंत्रालय को छोड़कर) भारत सरकार के मंत्रालयों और (संघ क्षेत्र प्रशासन को छोड़ कर) केन्द्रीय प्राधिकरणों द्वारा जारी किए गए विधिक आदेश और अधिसूचनाएं।

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administration of Union Territories).

MINISTRY OF WORKS, HOUSING & SUPPLY

(Deptt. of Works & Housing)

New Delhi, the 31st December, 1968

S.O. 90.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958), and in partial modification of the notification of the Government of India in the Ministry of Works, Housing and Supply (Department of Works and Housing) S.O. No. 3921 dated the 23rd October, 1967, the Central Government hereby appoints Shri Gurdip Singh, P.C.S., Assistant Estate

Officer *vice* Shri S. K. Dewan, P.C.S., to be the estate officer for the purpose of the said Act, and hereby makes the following amendment in the said notification, namely:—

In the Table below the said notification for the entry in column 1 against Serial No. 2, the following shall be substituted, namely:—

"Shri Gurdip Singh, P.C.S., Assistant Estate Officer."

[File No. 21011(4)/66-Pol.]

T. K. BALASUBRAMANIAN,

Deputy Director of Estates &

Ex-officio Under Secretary.

(Deptt. of Works & Housing)

New Delhi, the 31st December 1968

S.O. 91.—In exercise of the powers conferred by rule 5A of the Public Premises (Eviction of Unauthorised Occupants) Rules, 1958, the Central Government hereby transfers the proceedings for eviction and for recovery of rent or damages against Shri B. G. Sawant in respect of Quarter No. 100, 1st Floor Building No. II, Type II(Special), Ghatkopar, Bombay, under the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (32 of 1958), which were pending before Shri S. G. Puthli, Superintending Engineer, Bombay Central Circle, Central Public Works Department and the Estate Officer, in consequence of his transfer to Delhi, to the Superintending Engineer, Bombay Central Circle, Central Public Works Department, Bombay, who has been notified by designation as Estate Officer under the said Act by the Government of India, Ministry of Works, Housing and Urban Development Notification No. S.O. 225 dated the 10th January, 1967, for disposal according to law.

[File No. 21012(4)/66-Pol.]

V. P. AGNIHOTRI, Dy. Secy.

MINISTRY OF TRANSPORT & SHIPPING

(Transport Wing)

New Delhi, the 30th December 1968

S.O. 92.—In pursuance of sub-section (3) of section 4 of the Seamen's Provident Fund Act, 1966, (4 of 1966), read with paragraph 44 of the Seamen's Provident Fund Scheme, 1966, and in supersession of all existing orders on the subject, the Central Government hereby directs that accumulations out of fund contributions, interest and other receipts as reduced by obligatory outgoings, shall be invested in accordance with the following pattern, namely:—

- (i) in securities created and issued by State Government and other securities guaranteed by the Central or the State Government not exceeding 35 per cent.
- (ii) in Central Government securities including any savings or other certificates issued by the Central Government—the balance.

2. The above pattern shall be in force upto the 31st March, 1969.

3. All reinvestment of provident fund accumulations (whether invested in securities created and issued by the Central Government or in savings certificates issued by the Central Government or in securities created and issued by a State Government) shall also be made according to the pattern mentioned in the first paragraph.

[No. 5-MT(3)/67.]

K. V. SANKARAN, Dy. Secy.

ELECTION COMMISSION OF INDIA

New Delhi, the 29th August 1968

S.O. 93—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the Order, pronounced on the 28th March, 1968 by the High Court of Judicature, Andhra Pradesh at Hyderabad in Election Petition No. 20 of 1967.

IN THE COURT OF JUDICATURE ANDHRA PRADESH AT HYDERABAD

Thursday the twenty eighth day of March One thousand nine hundred and sixty eight

PRESENT:

The Hon'ble Mr. Justice Kumarayya

ELECTION PETITION No. 20 of 1967

Boddepalli Rajagopala Rao—Petitioner

vs.

Sri N. G. Ranga—Respondent

Petition under Sections 80 and 81 of the Representation of People's Act, 1951 praying that in the circumstances stated in the affidavit filed therewith, the High Court will be pleased to allow this petition and set aside the election of the respondent herein to the Lok Sabha from the Srikakulam Parliamentary Constituency and declare it to be void.

(2) Award to costs of this petition; and

(3) To pass such other orders.

Order.—This petition coming on for hearing on Thursday the 25th, Monday the 29th, Tuesday the 30th, Wednesday the 31st days of January 1968; Thursday the 1st, Friday the 2nd; Monday the 5th, Tuesday the 6th, Wednesday the 7th, Thursday the 8th, Friday the 9th, Monday the 12th, Tuesday the 13th, Wednesday the 14th, Thursday the 15th, Monday the 19th, Tuesday the 20th, Wednesday the 21st, Thursday the 22nd, Monday the 26th, Tuesday the 27th, Wednesday the 28th days of February 1968; Friday the 1st, Monday the 4th, Tuesday the 5th, Wednesday the 6th days of March 1968, and upon hearing the arguments of M/s. V. Venkateswarlu, N. Bhaskara Rao V. Shyamala Rao and G. Sreeramshastry Advocates for the petitioner, and of M/s. P. Lingalah Chowdary, M. Chandrasekhara Rao and A. Panduranga Rao advocates for the respondent, and having stood over for consideration till this day, the court delivered the following:—

Judgement.—In the recent bye-election held on April 27, 1967, to return a candidate to the House of People from Srikakulam Parliamentary Constituency, there was a straight contest between the petitioner Sri Boddepalli Rajagopala Rao and the respondent Sri N. G. Ranga. The latter came out successful as he had polled 173556 votes as against 120912 votes polled by his only rival candidate. The petitioner impugns his election on the ground that it is vitiated by various corrupt practices falling under sub-sections (1) (A)(a)&(b), (4), (5) and (6) of Sec. 123 of the Representation of the People Act.

To state in somewhat detail, it was alleged that on March 29, 1967, a day prior to the date of filing nomination paper, the respondent and his election agent G. Latchanna successfully dissuaded Suvari Sanyasi Appa Rao from standing as a candidate by paying him a sum of Rs. 4,000 by way of recompense, in the travellers' bungalow at Amudalavalasa between 6 and 8 p.m. in the presence of S. Raja Rao and others. Then again, on April 26, 1967, at about 8 p.m. they (the respondent and his election agent) paid an amount of Rs. 10,000 to D. Jagannadah Rao at Kothata in the presence of Sarpanch and elders of the village for the purpose of constructing a High School building in that village. The object of this payment was to induce the voters of Kothakota and of three other contiguous polling stations to vote for the respondent. Patakota was no less the object of such remunerative bounty for at the request of the villagers, in a meeting held on April 23, 1967, to donate a sum of Rs. 1000 to complete the excavation of a well for the villagers in return for their votes, the respondent got the said amount paid through Nagineni Venkayya to Girdhar and Judhisti, members of the Youth League, in the presence of the Sarpanch and the village elders.

The other corrupt practice alleged to be practised by them consists in the free conveyance of voters to the polling stations at Konkallapatti, Guttaballi and Gorribanda, by jeep, lorries and a bus with Swatantra Party flags on from the neighbouring villages on the day of poll.

It is further alleged that one Dola Jagannadham as the agent of the respondent and at the instance and expense of the election agent got published leaflets containing false defamatory statements in relation to the personal character and conduct of the petitioner calculated to bring down the petitioner in the estimation of the public and thus prejudice his prospects of election. These leaflets were caused to be distributed in several meetings held at Srikakulam, Mandasa Tokkali and Palsa wherein the respondent and his election agent exhorted the people not to vote for a person with such bad record.

The other corrupt practice alleged is that the respondent and his election agent did not duly maintain the accounts of election expenses in accordance with Rule 86 and contravened the provisions of Sec. 77 of the Representation of the People Act by exceeding the prescribed maximum limit of election expenses. It is claimed that large sums of money, amounting to Rs. 3 lakhs and more, were received during the election by the respondent, his election agent, other agents, Nagineni (mistake for 'Kavuri' which was later got corrected) Venkaiah and Simma Jagannadham by way of Bank drafts, telegram transfers, cheques, money orders, telegraph money orders through post offices and Banks, viz, Andhra Bank and the State Bank of India at Srikakulam and Sompeta, and were expended for election purposes. The return of election expenses shows expenditure either grossly under-estimated of with certain items wholly suppressed. A sum of about Rs. 43,000 was withdrawn from the Andhra Bank on April 24, 1967, by the respondent, his election agent and other agents, though obviously spent for election purposes, does not find place in the return. A voucher dated April 30, 1967, of Vijaya Auto Service Station for the sum of Rs. 1,192 though filed along with the return, does not find place in it. Large sums of Rs. 10,000, Rs. 6,000 and Rs. 10,000 have been spent on purchase of petrol respectively from Esso Standard Petrol Bunks at Srikakulam, Sompeta and six other bunks but only sums of Rs. 200 and Rs. 607-94 n.p. have been shown in relation to the first two and no amount is shown with regard to the last mentioned six petrol bunks.

The expenditure in relation to petrol obtained during the election from (1) Caltex bunk, Itchapuram, (2) Caltex petrol Bunk, Narasannapeta, (3) Indian Oil Corporation Ltd. Srikakulam, (4) Ramalingam Filling Station (Amudal-avalasa) was either wholly suppressed or under stated. So also petrol obtained from Tekkali.

Further expenditure on diesel oil, drivers and cleaners in respect of the vehicles engaged during the last week of election for propaganda and for conveying voters was also suppressed.

Similarly expenditure incurred for fixing and exhibiting the printed posters at different places did not find place in the return. So also the amounts paid to Padmanabha Printing Press, Vijayawada, and Sarada Printing Works, Rajam.

Like-wise expenses incurred for cycles, rikshaws and jutkas have not been shown.

Wages and expenditure incurred for maintenance of about 1000 workers for nearly 3 weeks and about 1500 polling agents on the day of poll also have not been shown even though they were considerable and in fact a sum of about Rs. 4,000 was paid by the election agent and Venkayya to Sri Venkateswara Lodging and Boarding, Srikakulam, in connection with the lodging and boarding only for the workers.

The amount expended for purchase of voters' lists, which is about Rs. 500, also has not been shown.

Thus it is alleged that the respondent is guilty of corrupt practice under sec. 123(6) for having contravened Sec. 77 of the Act. The petitioner, for all the above reasons, wants that the election of the respondent be declared void.

The respondent both in his written statement originally filed and also in the additional written statement which had to be necessarily filed on account of emendments in the petition allowed after the issues were framed, denied all the allegations specifically and comprehensively. He urged that apart from the fact that the allegations are untrue, some of them especially in Parts III and IV of the

petition are inchoate, besides being substantially vague and do not constitute complete cause of action and therefore, even if they be assumed to be true, do not make out any charge of corrupt practice and they are liable to be struck off as no triable issue arises therefrom. He averred that all the expenses incurred or authorised by the respondent or his election agent have been duly and fully brought to account. He further urged that the provision relating to the limit of expenditure entailing disqualification for the returned member of Parliament so far as it is left to the arbitrary power of the Government unregulated by any rules made by Parliament is unconstitutional. While claiming that the petition must fail on merits, he also contends that inasmuch as the petitioner did not file the petition in the Court in person but only through his advocate, there was no proper presentation and the petition, should therefore be dismissed *in limine* for non-compliance with the requirement of Sec. 81 of the Representation of the People Act. He further took a plea of limitation.

On the pleadings the following issues were framed:

- (1) Whether the election petition was not duly presented in the Court in accordance with law? What is the effect?
- (2) Whether the petition is barred by LIMITATION?
- (3) Whether the respondent and his election agent, Sri Gowthu Latchanna, induced Suvari Sanyasi Appa Rao not to stand as a candidate from the constituency and made a payment of Rs. 4,000 by way of gratification for the same as alleged in paragraph 2(a) of the election petition?
- (4) Whether Sri Gowthu Latchanna paid an amount of Rs. 10,000 on 26th April 1967 to Sri D. Jagannatha Rao for the construction of a High School building in Kothakota with the avowed object of inducing the voters of Kothakota and of three other contiguous polling stations, as alleged to vote for the respondent?
- (5) Whether Kavuri Venkayya was the agent of the respondent; and whether, as alleged, he, under the direction of the respondent, paid, Rs. 1,000 to Giridhar and Judisti-members of the village Youth League at the request of the villagers to complete the excavation of a well in return for their votes in favour of the respondent?
- (6) (a) Whether jeep APK 9486 was used for the free conveyance of voters by the agent of the respondent, one Dunkuru Mangulo, on 27th April 1967, the polling day, from Killol village and Killol colony to the polling station at Konkadapatti as alleged in paragraph 2(a) of the petition and so also a lorry flying the Swatantra Party flag was utilised for free conveyance of voters on the polling day from the surrounding villages to the polling station at Guttavalli as alleged in paragraph 2(b) of the petition and further a lorry No. APG 3911 and Bus No. APS 1315 flying the Swatantra Party flag were used for carrying the voters free on the polling day to Gorribanda from Burujuvada, Jagannathapuram and Jaggishturu via Sarvakota polling station as alleged in paragraph 2(c) of the petition?
- (b) Whether the above constitute corrupt practice as alleged in paragraph 2(d) of the petition.
- (7) Whether the agent of the respondent, one Shri. D. Jagannadha Rao, caused the printing and publication of a leaflet under the directions of the election agent of the respondent containing false, malicious and defamatory statements as detailed in paragraph 3(a), (b) and (c) and whether the expenses of these leaflets were defrayed by Shri Gowthu Latchanna as the election agent of the respondent and whether they were distributed at several meetings held by the Swatantra Party at Srikakulam, Mandasa, Tekkali and Palasa and whether the respondent and his election agent exhorted the people at those meetings not to vote for a person who had misappropriated public moneys?
- (8) (a) Whether this has prejudiced the prospects of the petitioner's election?
- (b) Whether the above constitutes corrupt practice under Section 123(4) of the Act as alleged in paragraph (4) of the petition?
- (9) (a) Whether the respondent has exceeded the prescribed limit and contravened the provisions of Section 77 of the Representation of the People Act, and deliberately submitted a return of only Rs. 15,834.82 P. even though he had incurred election expenses in a sum not less than

- Rs. three lakhs as alleged by the petitioner in paras 6(a) to (g) of the petition?
- (b) Whether the allegations made in Part IV of the petition and the rejoinder filed by the petitioner are not the allegations of corrupt practice within the meaning of Section 123(6) of the Representation of the People Act?
- (10) (a) Whether Rule 90 of the Conduct of Election Rules is *ultra vires* the powers of the Government? Whether even otherwise, the said Rule is unconstitutional as alleged?
- (b) Whether the respondent failed to comply with the provisions of Section 77(1) and (2) of the Representation of the People Act read with Rule 86 framed thereunder? What is its effect?

The petitioner contends that the election of the respondent is void because it is vitiated by various corrupt practices as detailed in Parts, I, II, III and IV of the election petition which fall respectively under Sec. 123(1) A(a) & (b); Sec. 123(5), Sec. 123(4) and Sec. 123(6) of the Representation of the People Act. Sec. 123 in its sub-sections specifies the various practices which are deemed to be corrupt practices for the purposes of the Act. Sec. 100(1)(b) enjoins that the High Court shall declare the election to be void if it is of opinion that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent. Sec. 100(1)(d)(ii) further says that if the High Court is of opinion that the result of the election concerning the returned candidate has been materially affected by any corrupt practice committed in the interests of the returned candidate by an agent other than his election agent, the High Court shall likewise declare the election to be void. Both the above provisions are subject to sub-sec. (2) of the same section which says that in cases where in the opinion of the High Court an agent other than the election agent has committed any corrupt practice, if the High Court is satisfied that it was committed without the consent of the candidate or his election agent and notwithstanding their orders or directions and despite the reasonable care taken by them for preventing the same, and the election otherwise was free from any corrupt practice on the part of the candidate or any of his agents, it may decide that the election is not void.

It follows therefore that a returned candidate shall be unseated by reason of a corrupt practice committed either by him or his election agent or by any one with the consent of either or any of them. The same will be the consequence if it is committed by any other agent in the interests of the candidate though not with the consent of either the candidate or election agent provided that it has materially affected the result of the election in favour of the candidate. The act of the agent may not, however, vitiate the election if it was committed contrary to the orders of the candidate or his election agent and despite the reasonable care taken by them against the commission of such act.

According to the language of the section, the High Court must be of opinion that a corrupt practice has been committed. Such opinion being necessarily objective has to be formed on evidence or legal proof. The proof in civil and criminal cases, as we know, is not the same. Whereas in civil cases a mere preponderance of probability is sufficient, in criminal cases the persuasion of guilt must amount to moral certainty so as to convince the mind beyond all reasonable doubt. The degree of proof required for corrupt practices in election cases is that required in criminal matters. The charge must be clearly stated in the petition and it must be strictly proved by clear cogent evidence beyond reasonable doubt. In case of doubt, the benefit thereof should be given to the person against whom the charge is preferred. That is what was held in *AHMEIYA SHERUMIYA SHAIKH v. CHHIPPA IBRAHIM NURAJI AND OTHERS* (1) (1959) (17 ELR 218). This Court in *MURALIDHAR REDDY v. PAGA PULLA REDDY* (2) (1964) (2 An. W.R. 242) and in *JAYALAKSHMI DEVAMMA v. JANARDHAN REDDI* (3) (17 ELR 302) has held that the charges of corrupt practice are quasi criminal in character and the allegations in that behalf must be clearly stated in the petition with sufficient precision and they must be proved by evidence of a conclusive nature. In *KONDAVETI GURUNATH REDDY v. SESHIAH* (4) (AIR 1966, A.P. 331) also this Court referring to the pronouncements of the Supreme Court, observed that the measure and standard of proof in an election case are the same as in a criminal case. The Supreme Court in *HARISH CHANDRA BAJAPAI v. TRILOKI SINGH* (5) (12 E.L.R. 461) clearly laid down that the charges of corrupt practices are quasi criminal in character; and in *JAGDEV SINGH v. PRATAP SINGH* (6) (AIR 1965 SC 183 at 183) it observed thus.

"It may be remembered that in the trial of an election petition, the burden of proving that the election of a successful candidate is liable to be

set aside on the plea that he was responsible directly or through his agents for corrupt practices at the election, lies heavily upon the applicant to establish his case, and unless it is established in both its branches, i.e., the commission of acts which the law regards as corrupt, and the responsibility of the successful candidate directly or through his agents or with his consent for its practice not by mere preponderance of probability, but by cogent and reliable evidence beyond any reasonable doubt, the petition must fail."

These observations, clear and categorical as to the measure and standard of proof of corrupt practices in election petition, are sufficient for our guidance. Learned counsel have referred me to a few other cases decided by the Supreme Court, viz., DR. JAGJIT SINGH V. GIANI KARTAR SINGH (7) (AIR 1966 SC 773) and KUMARA NAND V. BRIJMOHAN LAL SHARMA (8) (AIR 1967 SC 808). I do not think it necessary to deal with them as the principle enunciated is the same.

It follows from the above citations that the evidence in election cases to prove corrupt practices must be clear and cogent and must establish the charge beyond reasonable doubt not only because the election of a returned candidate cannot be lightly set aside but also because the charges of the kind require strict proof as they entail serious far-reaching consequence.

I now proceed to consider the various issues in this case. The corrupt practices alleged in this case are varied and manifold. They are of four different kinds and are set out (each separately) in four parts of the election petition. Part I of the petition deals with three specific charges of corrupt practice coming under sec. 123(1) A (a) and (b), Issues 2, 4 and 5 refer to the same. I take up each issue separately.

Issue No. 3.—The first contention of the petitioner is that the respondent and his election agent had by means of money successfully dissuaded a prospective candidate Suviri Sanyasi Apparao from filing his nomination paper. Suviri Sanyasi Apparao was a defeated candidate for Legislative Assembly in the general elections held in 1962 and 1967. The case of the petitioner is that he had intended to contest for Lok Sabha in the bye-election and was in fact canvassing for support in the constituency. It is his further case that the respondent and his election agent saw him in the travellers' bungalow at Amudalavalasa on March 29, 1967, between 6 and 8 P.M. at a meeting where others including one S. Raja Rao of Guttavalli and Bh. Suryanarayana had gathered. In the presence of these persons and others, they dissuaded him from filing his nomination paper and paid him a sum of Rs. 4000/- by way of recompense. As a result, Sanyasi Apparao did not stand for the election. Thus it is stated that the respondent has committed a corrupt practice falling under S. 123(1)(A)(a) of the Act.

The petitioner in his original petition did not name Bh. Suryanarayana nor did he give the particulars of S. Raja Rao. On an objection taken in the written statement, he gave these particulars by way of amendment.

The respondent in para 6 of his written statement denied the allegation made against him. His contention was that Suviri Sanyasi Apparao had neither intended to contest nor was he canvassing for support before the 29th of March, 1967. His further contention was that neither he nor his election agent went to Amudalavalasa on the 29th March, 1967, and made payment of Rs. 4,000/- to dissuade Sanyasi Apparao from contesting. In his statement filed after the amendment of the original petition, the respondent stated in detail that at the material time and date neither the respondent nor his election agent was or could be present at Amadavalasa. He himself at that time was busy with the meetings at Ravivalasa and Tekkali. He addressed an election meeting at Ravivalasa in Tekkali taluk between 6 and 7 P.M. and another meeting at Tekkali between 7-30 and 9-30 P.M. Both these places are located at a distance of about 35 miles from Amadavalasa. As regards his election agent he says, to the best of his information, he was travelling then in a car from Rajahmundry to Visakhapatnam on that day having left Rajahmundry at about 4 P.M. He reached Visakhapatnam by 2 A.M. and rested for the night at Visakha hotel till about 8 A.M. on 30th March, 1967. His election agent therefore could not be present at Amadavalasa on the 29th March, 1967.

In support of his case, the petitioner examined P.W. 24, S. Rajarao, and P.Ws. 25, Bh. Suryanarayana, named in his amended petition, and relied on Exs. P. 41 and P. 83. In rebuttal, besides himself and his election agent, the respondent examined Suviri Sanyasi Apparao, himself as R.W. 2 and also R.Ws. 1, 3, 6, 9, 10, 15, 25 and 26. He also relied on the pamphlets, Exs. R. 25 and R. 52, con-

taining the programmes of tour, and diary Ex. R. 64 filed by R. W. 9, and Exs. R. 65, R. 74, R. 75, R. 76 and R. 80.

Now, the two witnesses examined on behalf of the petitioner depose to the circumstances leading to their presence at Amadalavalasa travellers' bungalow and payment of Rs. 4,000/- to Suvani Sanyasi Apparao at the hands of Latchanna after both the respondent and Latchanna had requested him not to file nomination paper but help the respondent in the election. P.W. 24, S. Raja Rao, deposes that Suvani Sanyasi Apparao is related to him, their paternal grand mothers being sisters, that he worked for him in the general election in his contest as an independent member for Legislative Assembly seat from Nagarikatakam Constituency and that the said Sanyasi Apparao was intending to contest for the Srikakulam Parliamentary seat in the bye-election. He asked him to canvass for him to which he readily agreed. He started canvassing sometime after the middle of March 1967. Sanyasi Apparao took him to three villages of Narasannapeta Constituency, the names of which he does not remember. Both of them toured for the purpose in three villages of Nagarikatakam Constituency, the names of which he does not know; nor does he know the name of any person there. No meetings, however, were held. On the 22nd March, 1967, Mr. Ranga held a meeting at Korlakota when he canvassed support for his own candidature. Suvani Sanyasi Apparao presided over that meeting but according to the witness, in his address he declared his own intention to stand as a candidate. The witness cannot say whether it was the first time that Suvani Sanyasi Apparao addressed the meeting held by Ranga or he had addressed such meetings earlier. He cannot even say whether the meeting held on the 22nd March, 1967, was convened by Mr. Ranga or Suvani Sanyasi Apparao himself. He was at a loss to recount who had addressed first though finally on the suggestion of the counsel for the respondent, he said that Ranga addressed first. He could not tell about the effect of Suvani Sanyasi Apparao's statement in the meeting that he would stand as a candidate. The meeting was over by 7-30 or 8 P.M. Then there was a dinner arranged at the house of Suvani Sanyasi Apparao. The witness attended that dinner as well. According to him, Ranga told Suvani Sanyasi Apparao that he need not stand as a candidate unnecessarily, that Latchanna would be passing through Amadalavalasa and that at that time he may meet him at Amadalavalasa. The witness does not know the purpose of the meeting nor the particular reason why Amadalavalasa, which was not distant from there, was fixed as the meeting place. He admits that three days prior to the meeting at Korlakota he saw the handbills being distributed at Amadalavalasa which showed that Suvani Sanyasi Apparao is supporting the candidature of Ranga. He says that he asked Sanyasi Apparao when he was supporting the Swatantra Party why he was troubling him for his own support and whether what was stated in the handbills was true. Suvani Sanyasi Apparao replied that he did not know the reason why it was printed like that and that he was not going along with them. The witness further says that even after the 22nd meeting they went on their tour. Then on 29th March at 7 or 8 A.M. he came to Korlakota to Suvani Sanyasi Apparao's house. The whole day they were there. In the evening Suvani Sanyasi Apparao took him to Amadalavalasa saying that Ranga and Latchanna were coming there. According to him, Ranga, Latchanna and Chalapati Rao came there together. Then came Bendi Appalasuri and B. Suryanarayana (P.W. 25). It is significant that till that time he was not aware that the purpose of that meeting was to dissuade Suvani Sanyasi Apparao from filing nomination paper. It is there that Ranga and Latchanna asked Suvani Sanyasi Apparao not to file nomination paper and gave him Rs. 4,000/- so that he may not contest but help them. It is worthy of note that even though the witness was asking Suvani Sanyasi Apparao time and again that if he wanted to canvass support for Ranga, why he was troubling him, he did not make any gesture showing his disapproval of the move. On the other hand he says he was agreeable to his withdrawal after taking money and he even actually encouraged him to take the money. He justifies his conduct by saying that he thought that with the money so obtained Suvani Sanyasi Apparao could and would liquidate the debt of P.W. 24's brother. The witness admits that he knew that taking money for withdrawing from candidature is an offence; yet he encouraged him and thus abetted in the commission of the offence. He admits that Suvani Sanyasi Apparao did not ask for money. He cannot say why then the money was offered and paid and whether the money so paid was by way of gratification or for defraying the election expenses. He says when he told him that the money may be spent by paying off the debt due to his brother and not for election expenses, Suvani Sanyasi Apparao told him that he had to spend the amount for election purpose and not for discharging his brother's debt. That must mean that the money paid was not by way of gratification for withdrawing from contest or desisting from filing nomination paper so as to attract Sec. 123(1) (A)(a) of the Representation of the People Act. He admits that Suvani Sanyasi

Apparao did not pay off his brother's debt. He says he did not file his nomination paper these are the various features of his testimony and the substance of his entire evidence.

The witness no doubt is related to Suvuri Sanyasi Apparao in that the paternal grand-mothers of both of them are sisters and his paternal aunt's daughter is married to Suvuri Sanyasi Apparao's elder brother, but his relationship with the petitioner is much closer and many sided. That is the reason why admittedly not only he as his polling agent but his brother Sanapala Narasimha Apparao (P.W. 21) had actively worked for the petitioner even in this bye-election and as is clear from his own statement in connection with an incident in the bye-election not only he and one of his brothers (P.W. 21) but also another brother Sanapala. Chalapati Rao, his brother's son Ramachandra Rao and Sanapala Satyanarayana and Sanapala Narayanamurthy were interrogated by the police. This shows how great was the involvement of the whole family members in the incident and their attachment with the petitioner. It would appear from the testimony of P.W. 21, the brother of P.W. 24, that their mother is the elder sister of the petitioner's father. The natural brother of the petitioner who is given in adoption has married their sister. P.W. 24 has married the daughter of petitioner's wife's brother. The petitioner's younger brother Narasimha Rao has married P.W. 24's mother's sister's daughter. One of the brothers of P.W. 24, Sanyasi Apparao by name, has married the sister of the petitioner's wife. P.W. 21's son has married a girl from petitioner's family. All this makes it abundantly clear that the relationship of the witness with the petitioner is much nearer and closer than that with Suvuri Sanyasi Apparao. That seems to be the reason why he and his family members have all worked for the petitioner in the bye-election. P.W. 24 had worked for him in his previous election also. His assertion that they all worked to support Suvuri Sanyasi Apparao even after knowing that Rajagopala Rao would stand as a candidate cannot in face of the above circumstances ring true. It is said that he worked for Suvuri Sanyasi Apparao in the general election for Assembly seat. Be that what it may if there be a contest between the petitioner and Suvuri Sanyasi Apparao, it would be difficult to believe that P.W. 24 would work for Suvuri Sanyasi Apparao and against the petitioner. It admits of little doubt that for the bye-election in question Rajagopala Rao was necessarily a prospective candidate. P.W. 24 who worked for him in the general election could not be ignorant of the same. In that event it is difficult to comprehend that P.W. 24 would decide to work for Suvuri Sanyasi Apparao even if Suvuri Sanyasi Apparao had intended to contest. P.W. 24 nevertheless comes with a story of his tour to several villages along with Suvuri Sanyasi Apparao. This as a matter of fact has not been proved by any evidence. Not a single person who saw him accompanying Suvuri Sanyasi Apparao to various villages for this purpose has been examined. It is surprising that notwithstanding that P.W. 24 did not know the said villages nor even the persons living there, he would be taken to those places for canvassing support. This is highly improbable. If what Suvuri Sanyasi Apparao says is correct that he intended to contest as the petitioner was coming in the field, it is difficult to believe that P.W. 24 with all his attachments to the petitioner would think of canvassing support for Suvuri Sanyasi Apparao at any place or in places which are well known to him. Further, if Suvuri Sanyasi Apparao had intended to contest having even known that Ranga was coming in the field, it is surprising why he would have agreed to preside over the meeting held for canvassing support for Ranga. No doubt, P.W. 24 says that in the meeting held on 22nd March 1967 Suvuri Sanyasi Apparao had declared his intention to stand as a candidate. But this is not supported by any evidence. In fact as the evidence goes he was with Mr. Ranga in the meetings held at other places also for canvassing support for Ranga according to Ex. P-25. No doubt the testimony of P.W. 24 suggests that the meeting on 29th March, 1967, was held in consequence of a prior appointment made at the time of the dinner given on 22nd March, 1967, at Korlakota. Such was not, however, the case of the petitioner in his petition itself, nor is that spoken to by any other witness. If Suvuri Sanyasi Apparao had to be dissuaded by means of bribing that could not have been done in the presence of persons who belong to the opposite camp and at a place in the village where the petitioner resides. A single instance of bribery being sufficient to unseat the returned candidate, certainly the candidate would not take risk of furnishing evidence of the same against himself. Further, what after all is the strength that he is likely to gather thereby? Suvuri Sanyasi Apparao had not sufficient number of followers in his own constituency. So poor was the response in his favour from his own constituency that in the triangular contest for assembly seat he had lost his deposit as well. In both the elections in which he took part he met with dismal failure and this notwithstanding the alleged active support of P.W. 24. That shows how insignificant was his influence over the electorate and

how ineffective was the support of P.W. 24. These are indeed the various inherent improbabilities in the story that P.W. 24 deposes, who, after all, is a chance witness to the alleged incident of the 29th.

The only other witness examined by the petitioner in this behalf is P.W. 25. It is said that he is the friend of Bendi Appalasuri (R.W. 3) who had brought him to the travellers' bungalow at Amadalavalasa. According to him he was invited to dissuade Suvari Sanyasi Apparao from filing his nomination paper. He cannot be said to have domineering influence over Sanyasi Apparao. Nor did he enjoy any fiduciary relationship with him. Both belong to different villages and have no common meeting ground. His friendship, if any, with Bendi Appalasuri is said to be due to the fact that he had come to reside at Amadalavalasa but on his own showing he resides at Akkivalasa, of which he is a karnam. He has no friendship with either Ranga or Latchanna so that it may be said that he would go out of his way to oblige them. On the other hand, he has a reason to have attachment with the petitioner who according to him had already decided to file nomination paper. He was the co-opted member of the Samithi of which the petitioner's brother is the president. On both the occasions when he was co-opted, one or the other of the petitioner's younger brothers was the president. It is in fact the case of the respondent that the witness was the candidate of the President and he became a co-opted member through his influence. The witness does not categorically own this position. He says first that his election was unanimous and that there is no opposition group in the Samithi. He does not stick on to the same for he says at the same time that he is not in a position to say whether there was any contest or not at the time of his co-option on both the occasions. The position that he holds and which he owns to the President is of considerable importance as financial matters are to be dealt with by him. Several other suggestions were made to show that the witness is otherwise attached to the petitioner but he denied the same. Even so having regard to the close connection between the witness and the President and also because he is karnam of Akkivalasa which is under the Samithi, it is difficult to comprehend that Vendi Appalasuri who belongs to the respondent's party would invite him knowing it for certain that he is somehow connected with or obliged to the petitioner. His friendship with Suvari Sanyasi Apparao also is not intimate. Indeed Latchanna was much closer to Suvari Sanyasi Apparao and the fact that the latter had supported him in the general election bears testimony to the same. If Latchanna had to come personally to prevail upon Suvari Sanyasi Apparao, the assistance of any other person whose connections with him were not so close was wholly unnecessary. Further, as I have already said, if money by way of gratification was to be employed to serve the end, that being a corrupt practice sufficient by itself to undo the effect of election, it would not have been offered with such publicity and incriminating evidence. It is impossible to believe that the respondent and Latchanna were not wise enough. If Latchanna was coming that way, nothing would prevent him from going to Korlakota itself to prevail upon Suvari Sanyasi Apparao. Amadalavalasa is the petitioner's place of active influence. That could not, therefore, have been chosen as a meeting place nor his relative, or any friend of his would have been invited. Thus P.W. 25's presence was unnecessary and unwarranted. He is not a native of Amadalavalasa either. He owns no house there. According to him, he is working as a Karnam at Akkivalasa which is his place of residence. He has been shifting his places of activity. First he was a karnam of Bhairi village which he says he resigned in 1962 or 1963. He worked as karnam of Ramachandrapuram from 1945 to 1955 where some properties were purchased by the petitioner. Though he is no longer concerned with that place his assistance and influence is still available to the karnam there who is his maternal uncle's son. It is plain that both P.W. 24 and P.W. 25 are not disinterested witnesses. They are besides chance witnesses and their presence at the place in the circumstances of the case is not highly probable. Their testimony is not free from material discrepancies and inconsistency. P.W. 25 says that Sanyasi Apparao four or five days before the 29th March, 1967, had stated that he would file nomination papers, that on the 29th March, 1967, Bendi Appalasuri told him (P.W. 25) that Ranga and Latchanna had come to dissuade Suvari Sanyasi Apparao and that he should come with him to ask Sanyasi Apparao not to file the nomination paper. Thus he went there to dissuade Suvari Sanyasi Apparao. He did not know before he went there that Ranga and Latchanna would pay him money. After he went there, he advised him. He told him that elders such as Ranga and Latchanna were requesting him and it was better that he should not file nomination paper. After this witness says that in his presence Ranga and Latchanna asked Suvari Sanyasi

Apparao not to file nomination paper and Latchanna paid him Rs. 4,000/- for not filing the nomination paper. The witness knows that it was wrong to dissuade a candidate from contesting election standing as a candidate in consideration of money. Never-the-less he says he did not advise Suvvari Sanyasi Apparao not to take money. He did not advise the elders not to pay. Thus it may be seen that for what purpose or with what end of the money was paid, his statement is more categorical than that of P.W. 24. It may be noted at the same time that P.W. 24 does not speak of the fact that either P.W. 25 or any other person had taken part in dissuading Suvvari Sanyasi Apparao from filing nomination paper before money was paid. Likewise P.W. 25 does not speak to the fact that P.W. 24 had encouraged withdrawal in consideration of money. There are further contradictions and material discrepancies in the statements of these witnesses. Taken as a whole the statements of the witnesses do not inspire confidence at all.

As against this it is the case of the respondent that neither he nor Lachanna was on that day or at that time at Amadalavalasa and no such meeting was held nor any amount was paid in the travellers' bungalow. His definite case is that neither of them could be present there, for the respondent on that day between 6 and 7 P.M. had addressed a meeting at Ravivalasa in Tekkali taluq and between 7.30 and 9.30 P.M. on the same day had addressed another meeting at Tekkali itself. Both the places were at a distance of 35 miles from Amadalavalasa. As regards Latchanna he says he was then travelling in a car from Rajamundry to Visakhapatnam where he reached at 2 A.M. in the early hours of the 30th March, 1967. He reached Srikakulam only on the 30th March, 1967, and so he could not possibly come to Amadalavalasa on the 29th March, 1967. In support thereof the respondent has examined witnesses, including Chelapati Rao, Bendi Appalasuri and Suvvari Sanyasi Apparao, named by P.W. 24 and P.W. 25. They are R.Ws. 1 to 3, 6, 9, 10, 15, 19, 25, 26 and 31.

R.W. 1 Chalapati Rao is the paid General Secretary of Srikakulam District Swatantra Party getting an honorarium of Rs. 200/- plus actual travelling allowance. He deposed to various matters relating to the case. So far as this issue is concerned his case is that Suvvari Sanyasi Apparao did not intend either to file nomination paper of contest the bye-election, that no alleged meeting at Amadalavalasa on the 29th March, 1967, took place and that no amount, as alleged, was paid at that time to Suvvari Snyasi Apparao. In fact according to him, neither Ranga nor Latchanna could be at that place. Ranga was at Revivalasa and than at Tekkali, and so also was Suvvari Sanyasi Apparao who had even addressed the meetings there. Therefore, neither of them could be physically present at Amadalavalasa on the 29th March, 1967, between 6 and 8 P.M. The witness knows Suvvari Sanyasi Apparao and speaks of his unsuccessful contest for Assembly seat both in 1962 and 1967 General Elections. He is categorical that Suvvari Sanyasi Apparao did not intend to contest in the bye-election for the parliament seat and that on the other hand had decided to support Ranga. It would appear that Latchanna had decided to relinquish his parliamentary seat and retain his Assembly seat before the close of the 1st week (6th March, 1967), and Ranga's candidature was officially known in the Party quarters by the 12th. It was known to the persons closely connected with them even earlier. R.W. 1 came to know earlier. On the 14th or 15th of March, he had even informed Suvvari Sanyasi Apparao who agreed to support the candidature of Ranga and accompany him on his tour. He ascertained from Bendi Appalasuri also whether he would accompany Mr. Ranga on his tour programme. Mr. Ranga's programme was settled by 16th March, 1967 itself. He had to start on his tour on the 22nd March, 1967. It was four days programme in the first round. The Leaflet Ex. R-25 for this programme was published by Dola Jagannadham. Ranga arrived at Srikakulam on 21st March, 1967. Suvvari Sanyasi Apparao also came to Srikakulam. He, Bendi Appalasuri, Dola Jagannadham, G. Kameswara Rao and Challapati Rao accompanied Mr. Ranga in this tour which started on the 22nd. There were several meetings at various villages that day, the last being at Korlakota. This was presided over by Suvvari Sanyasi Apparao. A dinner was arranged by him that night. Neither at the said meeting nor at the dinner arranged P.W. 24 was present. P.W. 24 was known to R.D. 1 for the past ten years. The tour programme was up to the 25th and then again they started their tour from 27th March, 1967 up to 29th March, 1967. The later tour programme was published by Dharmana Narasaiah. The leaflet is Ex. R. 52. The last meeting on 29th March, 1967.

was held at Tekkali from 9 to 11 P.M. Before that there was a meeting at Ravivalasa which went on from 7 P.M. to 8.15 or 3.30 P.M. Ranga, Simma Jagannadham, Nicherla Ramulu and Suvari Sanyasi Apparao spoke in the meeting. This is the substance of the evidence of R.W.1. According to his story Suvari Sanyasi Apparao did not intend to stand for the bye-election but decided to support Mr. Ranga. He accompanied him on the tour programme to canvass support for Ranga and did canvass for him actively by his speeches in the meetings and that neither Ranga, Latchanna or Suvari Sanyasi Apparao nor himself was or could be present at Amadalavalasa on the 29th March, 1967, in the evening, as alleged. The story of bribing is thus untrue and unfounded. P.W. 24 was not present either at the meeting on 22nd March, 1967 or at the dinner so that his version that Ranga fixed appointment at the time of dinner may be believed. In this way the version of the petitioner's witnesses stands rebutted by the testimony of this witness. It is, however, urged that this witness is an ex-convict having been convicted for criminal breach of trust in relation to fines entrusted to him when he was a clerk in the Additional District Magistrate's court. It is also urged that he being a paid Secretary of the District Swatantra Party is highly interested and further he is the person who was deputed to give instructions to the advocate in the case and hence his evidence must not be believed. An interested witness is not necessarily a liar and his conviction years ago by itself does not disentitle him to any credit. His testimony must however be subjected to strict scrutiny and if it is corroborated by other evidence, there is no reason why he should not accept the same. The testimony of this witness does not suffer from serious discrepancies and further it may be seen that his is not the lone voice but there are others also who support him and what is more, the circumstantial evidence corroborates him in all the above aspects.

R.W. 3 is Bendi Appalasuri who accompanied Ranga in his tour from the 22nd to the 25th of March, 1967. He is the person who, according to the petitioner's witnesses was present at the travellers' bungalow in Amadalavalasa on the 20th March, 1967, when Ranga and Latchanna are alleged to have dissuaded Suvari Sanyasi Apparao from filing nomination paper. He says he and Suvari Sanyasi Apparao are both friends. He denies his friendship with P.W. 25 and P.W. 24. He of course knows P.W. 25 for the last 10 or 12 years as a person living at Ramachandrapuram for sometime and also at Amadalavalasa, which villages are a few miles distant from his own; but his acquaintance with P.W. 24 is only by face. He denies that S. Raja Rao had attended the meeting on the 22nd March, 1967, at Koralakota and the dinner party at Suvari Sanyasi Apparao's house. He further denies to have seen either of them on the 29th March, 1967. He denies his own presence at Amadalavalasa travellers' bungalow on the 29th March, 1967. As to Suvari Sanyasi Apparao, he says he did not intend to stand as a candidate in the bye-election. He did not inform him that he would stand though he went there several times. In fact, he had come to Sriakulam on the 21st March, 1967, to meet Ranga. There they saw the printed programme of Ranga's tour from 22nd March to 25th March, 1967. On 22nd March, 1967, all of them (R.W. 1, R.W. 2, R.W. 3 and Dola Jagannadham) started along with Ranga and toured that day to various villages, the last being Koralakota, where Suvari Sanyasi Apparao had presided over the meeting and gave dinner. Thus the testimony of this witness lends support to R.W. 1's statement. Against this witness also it is said that he is an interested person being a party worker but that by itself is not a circumstance to give lie to his testimony.

R.W. 2 is Suvari Sanyasi Apparao himself. His testimony has been subject matter of great controversy. In the absence of the senior advocate who could not come in time, the junior Advocate on record started examining him and was taken by surprise when the witness gave unfavourable answers to two of his questions at the end of page 2 of the deposition. He got funky and requested for some time to call the senior lawyer to undertake his examination. Some time was given for the purpose. In the interval it seems the election agent had come to the court to meet the lawyer in order to ascertain when he would be examined as a witness. His appearance coupled with the fact that the witness later on corrected himself saying that he was under the impression that the question was put to him in relation to 29th April, 1967, and not 29th March, 1967, has given rise to the present controversy. Even the senior Advocate at the time of starting examination had an idea of giving permission for cross-examination but as he had to satisfy the court as to the justification of such a step, he put questions to the witness

and when he ultimately found that he could not with justification ask for permission for cross-examination, he abandoned the idea. I have referred to this fact as I thought it necessary to state here as the way in which the deposition was taken down in shorthand does not disclose that the witness was examined with some break and after being re-administered oath.

What R.W. 2 has said in his deposition in this behalf is this: That in the beginning, some ten or fifteen days before the last date for filing the nomination paper, he had cherished an idea of candidature for the bye-election but when he came to know that Mr. Ranga was standing for the bye-election he abandoned the idea and decided to support him (Mr. Ranga). From the 22nd March, 1967 upto the end of the bye-election he did canvassing for him. During the course of examination in chief, when the case of the petitioner was put to him that Ranga and Latchanna had paid him Rs. 4,000/- on 29th March, 1967 in the Amadalavalasa travellers' bungalow in the presence of P.W. 24, P.W. 25 and R.W. 3 to dissuade him from contesting the bye-election, he said that it was not for dissuading him from contest nor was it a sum of Rs. 4,000/- that was paid but it was only Rs. 1,000/- and that for expenses and that he does not remember who were all present at that time. When he was asked whether he was at Amadalavalasa on 29th March, 1967 in the evening, he said that he was. It is at this stage (of examination) that the junior advocate, who was taken aback in view of this unexpected answer sought for leave to call his senior for examining the witness. In reply to the questions of the senior advocate the witness repeated his story that he had intended originally to contest the election but when he came to know through R.W. 1 that Ranga was coming in the field he decided at once to support him and told him that he would support. This decision he had taken of his own accord. He went to Srikakulam on the 21st of March. He saw the tour programme of Nagarikatakam constituency which was from 22nd to 25th of March and decided to take part in the programme with Ranga. He spoke of the tour from 22nd to 25th and then again from 27th to 29th March and deposed also to the meeting at Korlakota where he had presided and the dinner that he gave them. He also deposed to the last meeting at Tekkali on the 29th March, 1967, from 8 to 10 p.m. and the earlier meeting at Revivalasa from 6-30 to 7 p.m. His statement that in the evening of the 29th March, 1967 he was at Tekkali, naturally elicited the question why he had earlier said that he was at Amadalavalasa at that time. The witness therefore said that he stated like that having understood that the question related to 29th April, 1967 and not 29th March, 1967 for he was at Amadalavalasa on 29th April, 1967 and not on 29th March, 1967. He was asked also about the expenses of Rs. 1,000/- that he spoke of earlier. He said that when he was at Amadalavalasa on 29th April, 1967 R.W. 1 came and paid that money saying that Latchanna had sent the amount for expenses that he might have incurred in connection with the bye-election. The witness told him that he did not incur any expense and sometime thereafter he took the money to Latchanna and paid it to him. Then he was asked whether on the 29th March, 1967, Ranga and Latchanna met him in Amadalavalasa travellers' bungalow in presence of P.W. 24, P.W. 25 and R.W. 3. He denied it. He also denied that in the company of P.W. 24 he canvassed support for himself in the villages. All these questions were objected to by the petitioner but they were allowed as they were relevant and arose in natural sequence. They were permissible in law. The witness also spoke of Ex. R. 53 and Ex. R. 61, the memoranda given to the Minister and the Chief Minister against the petitioner. It cannot but be said having regard to this testimony that this witness is unfavourably and inimically disposed towards the petitioner. Their longstanding hostility is even admitted by the witness. They were involved in hotly contested litigation culminating in contempt proceedings. The petitioner as a result was fined. The petitioner also in turn started contempt proceedings against him which according to the witness was dismissed. This enmity apart, the witness had been involved in criminal and civil litigation and was convicted least in one criminal case. His evidence stood by itself may not be much significance as against the petitioner. But he was named by the petitioner to support his case. He is the main figure round which the web of corrupt practice has been spun by him. The respondent perhaps would not have chosen to examine him had it not been for the same. The corrupt practice alleged does not exist apart from him and wholly rests on him. He, as already noticed, is petitioner's confirmed enemy. Having regard to inimical relations existing between them, it is not

unlikely that any of them may be made the ready target of attack by the other. It follows that unless the allegation made by the one involving the other is established by clear independent evidence, the truth of the allegation cannot be accepted. It is argued that R.W. 2's statement itself lends ample colour of truth to the allegation of the petitioner. This argument is devoid of force. One would search in vain in his testimony for a single statement in support of the allegation of the petitioner that the respondent dissuaded him by payment of money from filing nomination paper. The witness does not say so nor does any circumstance elicited in his statement lends support to it. His version, read as a whole, supports the case of the respondent that there was no meeting at Amadalavalasa on the 29th March, 1967, that Ranga was not there but was at Ravivalasa and Tekkali at the alleged time and that Latchanna also was not there and no money was paid to R.W. 2 for dissuading him from filing nomination paper.

R.W. 6 is the next witness. He is the President of Nagarikatakam Constituency Swatantra Party Committee and also a member of the State Council of the Swatantra Party. He deposes that Ranga toured the said constituency before the bye-election from the 22nd to the 25th of March, 1967, for canvassing for his candidature and R.W. 1, R.W. 2 and R.W. 3 had also accompanied him besides himself and Garimella Kameswara Rao. He speaks of the meeting of Korlakota presided over by R.W. 2 and also the dinner given by him (R.W. 2) on 22nd March, 1967. He further deposes that neither Latchanna nor Ranga visited Amadalavalasa on the 29th March, 1967, for in that case he being the president of the Constituency Committee, would have been intimidated without fail. He speaks to the leaflet, Ex. R. 25, containing tour programme from the 22nd to the 25th March, 1967, which was got printed by him. He categorically states that Suvari Sanyasi Apparao did not canvass for his own candidature either on the 22nd of March or before but that he canvassed only for Ranga. Thus it is clear from his statement that the case of P.W. 24 and P.W. 25 that R.W. 2 had canvassed for support for his candidature is not true nor the contention that there was a meeting at Amadalavalasa where Latchanna and Ranga came can be true. I need not discuss now at this stage about the other matters that this witness has deposed.

Then there is the evidence of R.W. 15 who in the cross-examination has said that there was a meeting on the 29th March, 1967 at Tekkali from 7 p.m. and Suvari Sanyasi Apparao had presided over that meeting. This also improbabilises the alleged meeting at Amadalavalasa.

The respondent's testimony is no less material in the case. He as R.W. 19 has deposed to the fact that Suvari Sanyasi Apparao did not intend to contest the bye-election nor did he canvass support for his own candidature, that there was not even a whisper in that behalf from him but on the other hand he met him on the 21st of March, 1967, along with Bendi Appalasuri at Srikakulam, pledged support for him, travelled with him in his tour programme from 22nd to 25th of March, in the Nagarikatakam constituency and then again from 27th to 29th March, 1967, in Narasannapeta, Harischandrapuram and Tekkali constituencies. He further states that he and Suvari Sanyasi Apparao were together on the 29th March also and did not go to Amadalavalasa nor was any amount paid to the latter as alleged by P.W. 24 and P.W. 25 and further Latchanna was not present within the limits of Srikakulam parliamentary constituency at all on that day. He has deposed to these facts in detail. In his examination in chief he stated that he came to Srikakulam on 21st of March and stayed in that constituency till after the result of the election was announced. He toured various places in the constituency both before and after filing the nomination paper. On 21st March, 1967, Suvari Sanyasi Apparao met him along with Appalasuri and said that he was glad that he (the respondent) was the candidate, that he would support him and accompany him in his tours. The programme for the first round of excursion was, as per Ex. R. 25. Suvari Sanyasi Apparao along with others, e.g. R.W. 1 and R.W. 3 etc., accompanied him. He presided over the meeting at Korlakota, his native village, on 22nd March, 1967, spoke highly of the respondent and appealed for support for him. He arranged a dinner to which the respondent had agreed a day prior at his request saying that he (Suvari Sanyasi Apparao) would be honoured thereby. The entire programme in Nagarikatakam constituency was gone through in accordance with Ex. R. 25 and the programme according to Ex. R. 52 was started from the 27th. The 29th of March 1967 happened to be

the last day of the programme in that connection. In the evening a meeting took place at Ravivalasa, thereafter another at Tekkali and that happened to be the last meeting for the day. R.W. 15, the Secretary of the Tekkali constituency committee, welcomed the respondent and took him to Ravivalasa. Then at Tekkali after the meeting Surya Rao arranged a dinner in his honour. Suviri Sanyasi Apparao who had accompanied the respondent throughout his tour from 22nd of March took leave and left on 30th March, 1967. The respondent says, and his assertion must be true if the story as to the meetings, especially on the 29th of March, 1967, at Ravivalasa and Tekkali, which is supported by Ex. R. 52 as well is believed, that he did not visit Amadalavalasa on the 29th of March, 1967, between 6 and 8 p.m. as alleged. It is obvious that he could not be present on the 29th of March, between 6 and 8 p.m. at Amadalavalasa and also at Ravivalasa and Tekkali at the same time which places are at distance of 35 miles from Amadalavalasa. His further case is that Latchanna was not present within the limits of the parliamentary constituency on the 29th March, 1967, and he saw him for the first time on the 30th March, 1967, after his own (respondent's) arrival on the 21st of March, 1967 at Srikakulam. He categorically says that he and Latchanna had not gone to Amadalavalasa nor dissuaded Suviri Sanyasi Apparao from filing nomination paper and had not paid him Rs. 4,000/- or any amount at Amadalavalasa. That is the substance of his evidence in this behalf in his examination in chief. Some questions were put to him as to his career with as a political and a social leader and his other qualifications, both in examination in chief and cross-examination, by counsel of either party. It is not necessary for me to advert to the same for the present purpose. He was cross-examined in relation to his case, about Suviri Sanyasi Apparao and also the travel of Latchanna from Hyderabad to Srikakulam from 27th March onwards. Nothing adverse transpires from his cross-examination. His story that Suviri Sanyasi Apparao pledged his support to him of his own accord on 21st March, 1967, when he met him (Mr. Ranga) at Srikakulam is fully supported by his subsequent conduct, as from the next day he was on tour with Mr. Ranga at various places. Nothing can afford better proof of his sincerity than his active participation in the meeting held at his native place and arrangement of dinner in honour of Mr. Ranga in that connection. The part played by him on that day is even admitted by P.W. 24. Of course P.W. 24 deposed that Suviri Sanyasi Apparao himself intended to stand as a candidate and declared his intention in the meeting and also before and had even canvassed for himself. This has been categorically denied by Suviri Sanyasi Apparao. He no doubt says that some thought just crossed his mind some time before that he should stand but that was never made known to any and fizzled out as he heard that Mr. Ranga was setting up his candidature which was most welcome to him. He denies to have ever canvassed for himself or got canvassing done. P.W. 24's or P.W. 25's statement to the contrary is not supported by any direct or circumstantial evidence. When Suviri Sanyasi Apparao had already cast in his lot with Mr. Ranga, no question of his subsequent dissuasion could have arisen. He categorically denies that he had ever received any amount by way of recompense for withdrawing from candidature on the 29th March, 1967 at Amadalavalasa. The contention of P.W. 24 and P.W. 25 to the contrary does not find support from the witnesses named by them and is not even vouched for by the petitioner. If these witnesses had passed on to him (Petitioner) this information sometime after the event, there is no reason why the petitioner did not speak of the same on oath. That Suviri Sanyasi Apparao was with Ranga from 22nd to 29th March in all his tour programme is well established by the evidence referred to above. In this stage of evidence, the case of the petitioner that on the 29th March, 1967, between 6 and 8 p.m. in the presence of Sanapala Raja Rao and Bh. Suryanarayana and others Rs. 4,000/- were paid to Suviri Sanyasi Apparao for not filing nomination paper and for canvassing support for the respondent, is wholly improbable. It is inherently improbable because Suviri Sanyasi Apparao had already voluntarily pledged his support and was actively supporting Ranga's candidature. It is also improbable because neither Ranga nor Sanyasi Apparao, who were then at Ravivalasa and Tekkali addressing meetings could possibly come to Amadalavalasa at that time. This is sufficient to reject the case of the petitioner. But there is also an additional ground stated in the written statement in support of which evidence has been adduced. It is stated that Latchanna could not possibly be present at the place as he was then on his way from Raiahmundry to Visakhapatnam. As considerable volume of evidence, both oral and documentary has been adduced. I think it necessary to deal with it as briefly as possible. G. Latchanna testifies to the fact that Assembly session had started on 18th March, 1967, that he was at

Hyderabad and attended Assembly sitting till 27th March, 1967. That day he was there in the Assembly from 8-30 A.M. to 1-30 P.M. he started for Sriakulam in connection with Ranga's election. He had telephoned to Ranga who had already come to Sriakulam that he would reach there on 27th March, 1967, if possible and at any rate, on 30th March, 1967, without fail. He started from Hyderabad on 27th March, 1967, in the night by car. He reached Vijayawada on 28th March, 1967 where Nagabhushanam, the President of Krishna District Swatantra Party, met him before noon. There were some others also who saw him at the place. He talked to the party people on party matters. He left that evening at 5 or 6 P.M. for Eluru about 40 miles distant. There Achuta Raju, West Godavari Zilla Swatantra Party Secretary, who had already reserved the travellers' bungalow for him, was waiting for him besides Gokina Chandra Rao, Vice-President of the Swatantra Party Town Committee. Then he went to Rajahmundry after night's rest at Eluru. He reached there at about 7 or 8 A.M. on 29th March, 1967, and stayed at "Srinivasa Hotel". The room was reserved by Gokina Chandra Rao, Latchanna paid the bill, Ex. R. 75, and left at 4 P.M. Before he left he had telephoned to Sriakulam that he would reach there on 30th March, 1967. He reached Anakapalli between 8 and 9 P.M. After dinner, he started for Visakhapatnam and reached there at 2 A.M. R.W. 9 Paidi Thalli Naidu, who received him at Anakapalli was with him. At Visakhapatnam Latchanna stayed in a room in Visakha Hotel, reserved by R.W. 9. He paid the bill Ex. P. 80. He left Visakhapatnam for Sriakulam and reached there at about 11 A.M. on 30th March, 1967. If what he says is true, it is obvious that Latchanna did not touch Amadalavalasa at all and was not present there on the 29th March, 1967. There is no strong reason to disbelieve his testimony. His travel from Hyderabad to Sriakulam via Rajahmundry and Visakhapatnam has been clearly referred to in part (1) of the additional written statement. It is also stated when he left Rajahmundry and reached Visakhapatnam and Sriakulam. His stay in Visakha Hotel also was pointedly referred to therein. It is not also disputed that Latchanna was at Hyderabad till 27th March, 1967. It is only on the subsequent day that he reached Vijayawada. It would appear from the cross-examination that he was meeting Party people on the way and conferring with them. He was asked whether at Vijayawada Chandramouli had collected funds. In reply he said that he had promised to collect funds for the party. The question put in cross-examination suggest that Latchanna spent sufficient time at Vijayawada. Then again, the fact that he conferred with Party people at Eluru does not appear to be a disputed point. Questions were put to the witness that he asked for jeeps at Eluru and conferred with the party members there. Even the fact that he reached Rajahmundry on 29th March, 1967 seems to be common ground for the questions were put to him, in cross-examination that he made a request for jeeps even there, what all seems to be stressed on in cross-examination is that Amadalavalasa was about 200 miles from Rajahmundry and that he could cover that distance and reach Amadalavalasa on 29th March, 1967, at 6 P.M. Latchanna admits that a distance of 200 miles could be covered within eight hours by his car but he says that he left Rajahmundry at 4 P.M. and went to Visakhapatnam via Anakapalli and reached there at 2 P.M. in the night intervening 29th and 30th of March. The question is whether this is true. Before considering this I may consider the disputed point whether Latchanna had stayed at Eluru travellers' bungalow, as alleged. Of course, once his stay at Eluru is an admitted fact, it is immaterial for our purpose where he stayed, whether at Travellers' bungalow or elsewhere. Even the trend of cross-examination amply shows that it is the admitted case of the petitioner that he stayed at Eluru and conferred with his party men. The manner in which the entry in the register of the travellers' bungalow is made has given some scope for criticism and this point has been raised only at the time of argument. But Latchanna's version is clear and categorical. Beside his is not the lone statement in support of his story. R.W. 10 has spoken to his stay in the travellers' bungalow. The entry in the book of the travellers' bungalow, Ex. R. 65, was made by R.W. 10, Achuta Raju who is the vice-President of the District Swatantra Party and had come there to receive Latchanna. It is he who got the bungalow reserved for Latchanna. He says he was told earlier by Latchanna that he would come there on the 28th March, 1967. He, therefore, had reserved the bungalow for 28th March 1967 on 23rd March 1967 itself and obtained receipt. They were all waiting in the Municipal travellers' bungalow when Latchanna reached at about 8 P.M. on 28th March 1967. Latchanna rested for the night and left in the morning at 4-30 A.M. The witness made the entry as regards his stay in the register of the travellers' bungalow. He mentioned therein reservation receipt number also. He made no payment as that was already done at the time of reservation. The receipt obtained was in the name of Latchanna. His entry in the register clearly shows that G. Latchanna arrived on 28th March 1967 at 8-30 P.M. and

left the bungalow at 4-30 A.M. on 29th March 1967. If that was the only entry perhaps there could be no scope for the point raised. It appears that before he made this entry one Krishnam Raju, who had come there along with others much earlier, had made entry in anticipation of the arrival and departure of Latchanna referring also to the receipt number. This entry was made on the previous page at the end. The version is as he had to take possession of the room earlier to keep everything tidy, then entry had to be made in the register before the arrival of Latchanna. As the entries were made by two different persons and the charges of Rs. 2-50 shown in both the entries were not brought to account for that day and were not entered in the receipts pasted on the concerned pages, it was contended that the entries are not genuine but spurious. A little reflection would show that this contention is not well founded. The circumstances under which the said entries were made have been already stated. They are deposed to by R.W. 10. The receipt number entered in the register explains by itself why the amount stated which was already paid on 23rd March 1967 at the time of reservation was not brought to account in the receipts for 28th March 1967. Nothing therefore turns upon the entries made by different persons in the register of the travellers' bungalow. The version that Latchanna stayed at Eluru till 4-30 A.M. on 29th March 1967 must be accepted. From there he went to Rajahmundry. That is the only route to Srikakulam. It is also common ground that in order to go to Srikakulam from Rajahmundry one has to touch Anakapalli which is at a distance of 100 miles from Rajahmundry. It is possible to avoid Visakhapatnam while on way to Srikakulam but there is also a good road via Visakhapatnam. It is not possible to reach Amadalavalasa from Rajahmundry without reaching first Srikakulam. It seems to be the case of the petitioner that Latchanna had reached Srikakulam on the 29th itself and not on 30th March 1967 as alleged. No witness has seen him at Srikakulam on the 29th. On the other hand R.Ws. 1, 2, 3, 6 and some other witnesses have said that he had come there only on the 30th of March 1967. Further, if Latchanna had started at 4 P.M. from Rajahmundry his presence at Srikakulam before 6 P.M. is an impossibility. What is urged on behalf of the petitioner is that he started from Rajahmundry much earlier. But there is no witness to rebut the testimony of Latchanna and R.W. 25 and R.W. 26. Of course, much cannot turn upon any of the entries in the register of lodging and boarding of Srinivas Hotel (Ex. R. 74) for none of the entries shows that Latchanna stayed in that hotel on the 29th of March upto certain point of time. The entry marked Ex. R. 74 be it noted relates to P.Ws. 26 who according to it, had come from Pedapalem for Latchanna and had occupied that room on 28th March 1967. Ex. P. 833, relied on by the petitioner, is an overwritten entry and does not help the case of the petitioner. After all entries in registers like these are used only to lend assurance to any statement made. Ex. R. 74, having regard to the language used therein, is of little help to the case of either of the parties. What is of significance is the testimony of R.W. 31, R.W. 36 and R.W. 25. R.W. 25 is concerned with the hotel and deposes to the arrival of Latchanna and his stay up to 3 or 3-30 P.M. on 29th March 1967. He also refers to the bill that he paid which includes charges of trunk telephone to Srikakulam, which is spoken to by R.W. 1 as well R.W. 26 speaks of the purpose of his coming over to Srikakulam and reserving the room. He too says that Latchanna was at Rajahmundry till 4 P.M. on 29th March 1967. Latchanna deposes as to his stay at Rajahmundry hotel and payment of the bill, which included trunk telephone charges. There appears to be no reasons to disbelieve the testimony of these witnesses which stands un-rebutted. That he reached Anakapalli thereafter at 8 or 9 P.M. and then Visakhapatnam at about 2 A.M. is also deposed to by R.W. 9, who is a Municipal Councillor at Visakhapatnam and a trustee in the Town Planning Trust. He belongs to Swatantra Party and is the Secretary of the District Swatantra Committee for the past four years. He is a member of the State Executive Committee of the Swatantra Party as well. He received the message from B. V. Ramana viz. President of the Dist. Swatantra Party through a Messenger from Anakapalli at 10 A.M. on 28th March 1967 that Mr. Latchanna was coming there on 29th March 1967 in the evening. He went there in the evening. Latchanna reached there at 7 P.M. from Rajahmundry. He stayed there up to 1 A.M. There was a workers' meeting. Latchanna addressed that meeting and both of them set out for Visakhapatnam where they reached at 2-30 or 3 A.M. in the small hours of 30th March 1967. His lodging was arranged in a room in Visakha Hotel at 7-30 or 8 A.M. on 30th March 1967 both of them visited K. G. Hospital to see Narasimharao Dora M.P. and A. Dhanayya, who were in-patients in the hospital. It is at 9-30 A.M. that Latchanna left for Srikakulam to be present there at the time of filing of nomination paper by Ranga. The witness has been maintaining regularly diaries for several years past wherein he entered all important events. He filed his diary, Ex. R. 64(a) wherein, on the relevant date there is a reference to Party workers' meeting, Latchanna's address and discussion about funds. It also bears reference to return journey to Visakhapatnam and then on 30th March 1967 visit to the hospital and

march to Srikakulam. The only criticism against this witness is that he has several diaries in his possession in which he could make entries at any time at will and that that is obvious even from the fact that for the year in question there were two diaries maintained even though the entries could and ought to have been made in one diary alone. The entries in the second diary are only for some intervening period. The witness has explained that he could not make entries in the first diary for some time as it was misplaced. The very fact that he used to maintain diary regularly is clear from the several diaries full of entries in his possession. At any rate there is nothing unnatural or uncommon in the statement of the witness and there is no incongruity or inconsistency in it which disentitles him to credit. On the other hand it seems to me quite natural and having regard to the nature of his testimony and its accord with probabilities it must be accepted. As already stated, the statement in the diary has been and could be relied on for purpose of corroborations. The substantive evidence is the statement of the witness which, in my opinion is acceptable. Latchanna, has corroborated the same. Besides Ex. R. 80, the bill bearing the stamp of Hotel Visakha is produced and vouched for by Latchanna. Stress is laid on the fact that the manager of the hotel, who was cited as a witness, was not examined. That contention is not of much consequence as it is open to the party to adduce only so much evidence as he thinks is sufficient. There is little doubt that there is large volume of evidence in support of the theory that Latchanna on the 29th was on his way from Rajahmundry to Visakhapatnam and could not have reached or be present at 6 P.M. at Amadalavalasa which is a place 200 miles distant from Rajahmundry. The burden of proving that both Ranga and Latchanna had come to Amadalavalasa and bribed Suvarl Sanyasi Apparao for not filing nomination paper lay heavily upon the petitioner. The petitioner in his evidence has not thrown any light on it. The two witnesses examined on his behalf are highly interested and their testimony is fully rebutted by the witness named by him as the persons present at the time. Besides, their evidence is discrepant and does not accord with probabilities. It is difficult to believe that it has a ring of truth around it. Both the oral and documentary evidence falsify it. There are inherent improbabilities in the allegation itself. Suvarl Sanyasi Apparao, who had volunteered his support for the respondent before R.W. 1 as early as on the 14th or 15th March and before the respondent on the 21st itself and accompanied him from 22nd onwards canvassing his active support from place to place required no persuasion and no bribe on the 29th of March neither he nor any of the alleged bribe givers could be present at Amadalavalasa at that time. All the three have denied such transaction and they are supported in this behalf by both oral and documentary evidence. Issue No. 3 must, therefore, be decided against the petitioner.

Then I take up issue No. 4.

Issue No. 4.—This issue relates to a corrupt practice falling under Sec. 123(1) (A) (b). The petitioner's allegation is that the election agent, G. Latchanna, visited Kottakota at about 8 P.M. on April 26, 1967, and paid an amount of Rs. 10,000/- to one D. Jagannatha Rao, a resident of that village for the purpose of constructing a building for the High School in that village with the object of inducing the voters of Kottakota and three other contiguous polling stations viz. Shalantri Rottavalasa and Mulagavalasa, to vote for the respondent. The amount was paid in the presence of the Sarpanchas and elders, viz. Ramulu Appalasuri and Adinarayana of the said villages. It may be stated here that the names of the villages and the persons, which are referred to in this charge, were included by way of amendment of the petition.

The respondent denied this allegation and stated that on inquiry he learnt that G. Latchanna did not visit Kottakota at the alleged time and on the alleged date and he was touring at that time in Tekkali and Sompeta Constituencies.

In support of his allegation the petitioner examined P.Ws. 7 to 9 and 11 and relied on various documents, Ex. P. 799, P. 799/1 and 2, P. 814/1, P. 815, P. 816, P. 817, and P. 818. As against this the respondent examined in addition to himself and the election agent, R.Ws. 1, 6, 8 and 16, and relied on Ex. R. 66 to R. 69 and R. 70 (1 to 8).

It is now to be seen how far the petitioner has established the alleged corrupt practice. In his amended petition, while referring to Appalasuri and other persons as persons present at the time, he did not give their surnames. The respondents demurred that there were several persons of that name in the village and that the petition even after amendment is kept vague. The petitioner having named only one Appalasuri has now produced two persons bearing that name: one is Lhavala Appalasuri (P.W. 7) and the other Amballa Appalasuri (P.W. 11). The two other witnesses examined by him are Kusumanchi Adinarayana of Rottevalasa and

Galala Ramulu of Shalantri. P.W. 7 does not belong to any of the villages referred to in para 2(b) of the petition. He belongs to Venkatanarasimhapuram. According to him Gowthu Latchanna and Dola Jagannadham went to his village and promised to pay Rs. 10,000/- for High School building and asked for votes in their favour. A day before the election, i.e. on 26th of April 1967, however, the amount was paid in the presence of P.Ws. 7 to 9 and 11 and Suravarapu Satyanarayana, Suravarapu Venkatanarayana, Mudella Kanniah, Dhannana Shayam Sunder Rao and Edu Appala Naidu, President of Koragam, which again is a place not mentioned in para 2(b) of the petition. All these, including the witnesses, had come at the time of payment because P.W. 6 had sent word to them at 6 P.M. to assemble at the mill. The amount was paid at 7-30 P.M. In cross-examination the witness says that they came to know for the first time that Gowthu Latchanna would pay Rs. 10,000/- only a week or 10 days before the bye-election. Dola Jagannadha Rao went to his house at Venkatanarasimhapuram at about 11 or 12 noon and informed him accordingly. At that time 7 or 8 persons were present. The Congress-workers came thereafter and asked for their votes but the villagers did not ask for any money from them. Seven or eight days thereafter Dola Jagannadha Rao sent word through a messenger from Kottakota asking them to assemble at the rice mill of P.W. 11 at Kottakota at 6 P.M. telling them that Latchanna was expected to come there. It would thus appear that the story that both Latchanna and Dola Jagannadha Rao had come to his village and promised them to pay Rs. 10,000/- asking them to give votes, as deposed to by the witness in examination in chief, stands contradicted by his own deposition in cross-examination. The witness further says in cross-examination that all of them had gathered by 6 or 6-30 P.M. at the rice mill and that out of 7 or 8 persons, who had gathered there, 2 or 3 were opposed to the proposal of taking money for votes. They were P.W. 11 and Mudella Kannaiah. Others, however, were agreeable at the instance of Jagannadha Rao for it was for school purpose. These two persons did not, however, agree. Nevertheless they continued to stay there waiting for Latchanna. They did not raise demur after Latchanna had come. They did not tell him either. The money was paid to D. Jagannadham and as a result, favourable voting was done. The witness further says that after election, when they had gone to Srikakulam the petitioner found fault with them for not having voted for him. Thereupon they said that they had received Rs. 10,000/- for construction of the school building and therefore they voted for Swatantra Party. These are the salient features of the testimony of P.W. 7. It is to be seen how far they find support from the testimony of other witnesses.

P.W. 8 does not say, as P.W. 7 had said, that G. Latchanna, along with Dola Jagannadham, came for canvassing and promising to pay Rs. 10,000/- for construction of the building if they voted for Mr. Ranga, nor does he say that it was at P.W. 7's house that Dola Jagannadham had informed them that Latchanna would pay the amount. According to him, Dola Jagannadham went to this village and canvassed for votes saying that Rs. 10,000/- would be paid by Latchanna for construction of the High School building. The amount was accordingly paid afterwards by Latchanna into the hands of D. Jagannadha Rao at Amballa Appalasuri's rice mill at Kottavalasa in the presence of himself and others belonging to Katakam, Ayyapaeta, Koragam, Dannavapet, Rotavalasa, Salantri and Kottakota villages. Evidently some of these villages are not referred to in the petition itself. The witness in cross-examination stated that the amount was paid to D. Jagannadham on the condition that if all of them voted for the Swatantra party and if the Swatantra Party's candidate was eventually elected, they would construct the High School building. It was so stated then by D. Jagannadham himself. When the witness was asked whether it was meant thereby that if the Swatantra Party candidate was not elected, the amount would be refunded. He said that they did not ask about that. He does not know whether Rs. 10,000/- was the estimated cost of the building. He says that the arrangement was that money would remain with D. Jagannadham and after the election is over, he will construct the High School building. There was no arrangement to give the amount to the High School Committee. It may be seen that Jagannadham was not a member of the High School Committee. Even according to this witness he had ceased to take interest in the matter, when the place pointed by him as the proposed site for the High School building was not accepted by the members of the High School Committee. That was two or three months prior to the bye-election. It is plain that at the time when the money is alleged to have been paid, D. Jagannadham was neither a member of the Committee nor could validly associate himself with any activities relating to construction of the School building. As to the fact how the various persons had come to know that the amount would be paid and for that purpose had assembled on the day, the witness says that on the 26th at about 4 P.M. a messenger came and asked them to come Amballa Apalasuri's rice mill at Kottakota as Latchanna would come and give them the money. The witness does not know the name of the messenger. When asked again whether that was the first

occasion that they came to know that Rs. 10,000/- would be paid, the witness says that a day earlier also he had heard the same. It was Mudedla Kannaiiah who said that Rs. 10,000/- would be paid and that they should all give votes. He also admits that he and others had gathered there for money and says that there was no discussion regarding the propriety of taking money among the several persons who had gathered there and that the two persons who were of the view that taking of money was bad told them so after Latchanna came and not before. His version except to the extent that Latchanna had paid money on 28th April 1967 to D. Jagannadham differs in all other respects from the testimony of P.W. 7. How and when they came to know that Latchanna had intended to pay Rs. 10,000/- for construction of the building, how they were told about it and in what manner they were invited and how and when the discussion arose among the members who had gathered there, and what was the condition attached to payment, the two statements are not *ad idem* but materially differ from each other.

Then there is the testimony of P.W. 9 and P.W. 11. P.W. 9 says that the Swatantra Party solicited votes on promise of payment of Rs. 10,000/- for construction of High School building and that amount was paid near the rice mill by G. Latchanna at Kottakota. It was paid to D. Jagannadham a day prior to the election at about 7-30 or 8 P.M. In cross-examination the witness says that he came to know through D. Jagannadham for the first time that Latchanna would come on the 26th. He says that D. Jagannadham personally went to all villages and told about this matter. He further says that Jagannadham had told him at the time of payment that it was a payment without any conditions attached to it. He says that all the people in the village obey him (the witness) and they said that they would give votes for the 'Swatantra'. The testimony of this witness is curiously enough silent about the persons present at the time of payment. Even the place of payment named by him is not the same as stated by the other witnesses. His testimony in relation to the conditions of payment neither accords with the statement of P.W. 7 nor with that of P.W. 8. The condition that payment was made as a recompense or gratification for voting for the respondent or on condition that the votes should be given to the respondent and further that the respondent should come out successfully is rebutted by this witness in cross-examination.

P.W. 11 who speaks of the meeting in the rice mill has his own tale to tell. He says that D. Jagannadha Rao had come to his mill at 4 P.M. on the day previous to the bye-election and told him that Latchanna would be coming there and that he should be present there. Till he was told so, he did not know at all that a meeting was to be held that evening in his rice mill. D. Jagannadham at that time itself told the witness that people of 4 or 5 villages were coming there. He did not tell him that money was to be paid. Dola Jagannadham stayed there and only at 6 or 6-30 told the witness that money would be paid for the High School. He informed him that people requested him for money for the High School building and that Latchanna would come and pay. It may be noted that it is not the case of any of the witnesses that people had requested for money. The witness says that he did not like the idea of payment of money it was an offence to receive money and gives votes. According to him, on the other hand, all the other persons said that they needed money and the money should be accepted. He did not say that that being an offence the act of giving should not take place in his mill. He did not tell Latchanna either that it was not proper to give money. He did not take any objection to the meeting which, according to him, was arranged without notice, which is improbable. He says that he informed none about it not even the petitioner who was the Congress candidate. In the very next breath, however, he says that he had informed the petitioner four or five months after the bye-election at Srikakulam. That must be the period long after the election petition was filed. One further fact that cannot escape one's notice is whereas the other witnesses have not said that R.W. 1 also had come there, this witness says that he was there.

This is the entire oral evidence adduced in the case. It is highly discrepant and hardly merits credence. To start with, the petition does not refer to the place of incident, whether it was rice mill premises or not. While some of the witnesses say it was rice mill premises itself, P.W. 9 says it was near rice mill. The rice mill owner is said to have informed the petitioner long after the filing of the petition. That may be the reason why the place and his name have not been shown in the petition. The petition refers to Appalasuri but there are admittedly several persons of that name in the village of villagers mentioned in the petition. He could not be P.W. 11 for he did not inform the petitioner about the incident by that time. He could not be P.W. 7 either for his village does not find place in

the names mentioned in para 2(b) of the petition and further, he is neither Sarpanch nor elder of any of the villages mentioned therein. Besides, as we have been, the testimony of all the witnesses is marked by serious discrepancies. The manner in which the promise was made and the persons were called to the rice mill as already noticed, are described differently by different persons. Not merely this, there is divergence as to whether the persons who had gathered there were in favour of acceptance of the offer or not. While P.W. 7 says that P.W. 11 and Mudedla Kannaiah had expressed their dissent before Latchanna came over there, the statement of P.W. 8 is wholly inconsistent with it. P.W. 8 says that there was no discussion before Latchanna came among the persons gathered there. It is only after the money was given, two persons said that it was not advisable and was bad. P.W. 8 says that Mudedla Kannaiah had told him that Rs. 10,000/- would be paid and that they should give votes. This means he was agreeable. The statement of P.W. 8 as to the condition on which the amount was kept with D. Jagannadham is off at a tangent with that of P.W. 9. It would further appear from his statement that what was told to them was that if the Swatantra Party candidate came out successful the building would be constructed and there was no talk that money would be given to the Committee by R.W. 6. He cannot say if the Swatantra Party candidate did not come out successful the money would be refunded. P.W. 9's statement that no condition was attached to the payment of Rs. 10,000/- runs riot with the statement of P.W. 8. It renders the act of giving a benevolent act not even verging on the borders of a corrupt practice. P.W. 11's statement about his subsequent conduct that he and Kannaiah got all to vote for the Swatantra Party candidate does not accord with his dislike of the corrupt practice. Thus it would be seen that apart from the statement that money was paid to Jagannadham by Latchanna, the witnesses are not at one on any other particulars of the incident. The story of each as to these particulars differs substantially from the other. It is difficult, therefore, to accept their statements at their face value. They are not disinterested witnesses either P.W. 7 belongs to the Community of the petitioner. His father-in-law is Boddepalli Appalasuri. It is the same surname as that of the petitioner's family. He is a member of Kottakota Panchayat and admittedly the petitioner's own brother is the Samithi President. He was besides this, a few months back, a member of the Co-operative society of which Boddepalli Ramulu is the Secretary. His father-in-law is still a member thereof. All this shows his contacts with the petitioner and his family members are closer than those with R.W. 6. P.W. 8 is a member of the Co-operative society. He is besides a co-opted member of the Samithi for Works Committee, of which the petitioner's younger brother is the President. P.W. 9 is the President of Salantri Panchayat. He is a member of the Samithi of which the petitioner's brother is the President. P.W. 11 is a rice mill owner. The petitioner was the President of the Rice Millers' Association. It is also suggested that this witness has a cause for grouse against R.W. 6.

Apart from the interested nature and the fact that their testimony is replete with material contradictions, there are inherent improbabilities in the story told. It is said that money was paid to Dola Jagannadham who is no other than an active member of the Swatantra Party. He is the President of Nagarikatakam Assembly Constituency Swatantra Party Committee. He is also a member of the State Council of the Swatantra Party. He is not a member of the High School Committee and according to the statements of P.W. 8 and P.W. 11 had ceased to have all interest in the High School work long prior to the bye-election on account of differences between him and the members of the High School Committee on the question of the selection of the site for the High School building. Suravarapu Venkatanarayana is the present President and Alla Venkatrao (R.W. 16) is the Secretary of the High School Committee. It is said that the President was present at the time of payment. If the funds are to be provided for the construction of the school building, they must be available to committee. It is not easy to understand how then he could act for the Committee and take money on its behalf or be depended upon by the Committee to be entrusted with the money intended for it. The President of the High School Committee Suravarapu Venkatanarayana is, no doubt, related to him as he (R.W. 6) is his maternal uncle but their relations on account of litigation are far from being cordial. Venkatanarayana's father Suravarapu Satyanarayana, who is joint with him, is the elder brother of Savamma, who brought a suit for partition against him (R.W. 6) claiming that she is his step-mother. That suit is being hotly contested, Satyanarayana is an active supporter of his sister who, in fact, resides with him. There are also further contributing cause for their strained relationship. There is "large size" co-operative credit society in the village which is financed by the Co-operative Central Bank, Srikakulam, of which the petitioner is the President. R.W. 6 was the first nominated president of the nominated Board of that Society.

But before the expiry of the original term fixed, the nominated body was superseded and Suravarapu Satyanarayana became the President. This, R.W. 6 contends, was due to the influence and help of the petitioner as against him. Satyanarayana is beholden to the petitioner also because his son-in-law was appointed supervisor in the Central Bank. Besides Satyanarayana is a member of Amadala-valasa Panchayat Samithi of which the petitioner's younger brother is the President. Thus it is said Suravarapu Satyanarayana though his close relative, is in the opposite camp being under the influence of the petitioner and having personal grudge against him. The petitioner belongs to the opposite party and has taken active part against him in the political field. In the election for the Assembly seat from Nagarikatakam constituency the petitioner and his brother as Congressites supported the rival candidate of R.W. 6 to a successful end. It is also said that P.Ws. 7, 9, and 11, belong to his party and that both in the general election and in the bye-election they had supported Congress candidate. In these circumstances it is highly improbable that P.Ws. 7 to 9 and 11, who are not members of the Committee even, would be called to agree to or witness the payment or the money would be paid into the hands of R.W. 6 to the satisfaction of either these witnesses or the President of the High School Committee. The High School Committee was an active body which strained every nerve to collect funds from the public for the High School. It is influential and has the confidence and support of the public. It has been able to collect sufficient funds from the public to meet the demand of the Zilla Parishad. Originally there was only a primary school. The Committee's effort was to get it upgraded to meet the requirements of the neighbouring villages. The Zilla Parishad asked for a deposit of Rs. 5,000/- by way of contribution for the purpose. The High School Committee collected the said funds as its account books would show and deposited the amount in instalments. Ex. R-66 dated 15th July 1966. Ex. R-67 dated 18th July 1966, and Ex. R-68 dated 22nd April 1967 are the challans showing the deposit of Rs. 2,500/-, Rs. 1,500/- and Rs. 1,000/- respectively, thus totalling Rs. 5,000/-. Subsequent thereto a further demand of Rs. 750/- was made and it was remitted under challan Ex. R-69 dated 7th July 1967. These challans bear in them specific reference to the purpose of deposit. The stated purpose is contribution for upgrading upper primary school to high school and the last remittance was for opening next higher class. All these remittances bear mention in the account books maintained by the Committee. Exs. R-70/1 to R-70/8 are the relevant entries proved by R.W. 16, the Secretary, who has been cross-examined at length on behalf of the petitioner and was questioned as regards the resolutions passed from time to time and various other entries in the books (Ex. P-799/1 to 4, P-814 to P-818). It is unnecessary for the present purpose to deal at length with these exhibits. Suffice it for the purpose to notice that the High School Committee was a recognised organisation and was actively participating in the affairs of the High School. It may also be noted that the President of the Committee had donated $1\frac{1}{2}$ acres of his own land and the balance of $3\frac{1}{2}$ acres was granted by the panchayat from out of the poramboke land under its resolution, for providing a site for the construction of a building for the High School. When the activities of the High School Committee were so prominent and the President of the Committee was present at the time, it is impossible to believe that the amount intended for the construction of the High School building would be paid to any one other than the President or at any rate, to R.W. 6. If the payment was nevertheless true by any chance, it is surprising that no steps were taken on behalf of the Committee to collect the same from R.W. 6 even though the Swatantra Party candidate has come out successful. Such silence or inactivity on the part of the Committee, which is said to be badly in need of money, is unimaginable. This is a further circumstance to prove that inherent improbability is writ large on the face of the contention that money was paid for the High School construction. It is also said that once the contribution has been made by the Committee, and the site provided, the construction of the building was the exclusive concern of the Zilla Parishad. In the absence of specific rule, statutory or otherwise, or clear and cogent evidence in this behalf, the contention that the Committee was not in need of money at all for construction, cannot be countenanced. The fact nevertheless remains that the money could not have been, in the circumstances mentioned, paid to R.W. 6 and in the presence of P.Ws. 7 to 9 and 11 and the President of the High School Committee. The evidence of P.Ws. 7 to 11 suggests that on account of this payment alone, they helped in getting votes for the Swatantra Party. As already noticed, they being under the influence of the Congress candidate, could not have possibly aided the Swatantra Party candidate. Further, the results, as in Exs. R-48 and R-50, would show that the Swatantra Party candidate got this time less votes than in the general election from these villages. Judged from any point of view, the contention of the petitioner is evidently improbable. It has been rebutted by the testimony of R.W. 6 and R.W. 16 besides R.W. 1, R.W. 2, R.W. 19 and R.W. 31. R.W. 6 has categori-

cally denied this transaction. R.W. 16, the Secretary of the High School Committee, also has denied any such payment to the Committee. R.W. 1, R.W. 8 and R.W. 31 (Latchanna) say that Latchanna did not go to Kottakota on that day. I think it unnecessary to discuss this part of the evidence at length when it is clear that the petitioner has failed to establish the alleged corrupt practice. As stated above, not only the oral testimony in this behalf is inconsistent and does not make out a case of corrupt practice, the probabilities of the case are strongly against the petitioner's contention and there is no reason to disbelieve the testimony of the respondent's witnesses in this behalf. Issue No. 4 is decided against the petitioner.

Issue No. 5.—This is yet another corrupt practice falling within Section 123 (1) (A) (b) alleged by the petitioner. His case is that the respondent and his election agent convened a meeting at Patakota, a village within the limits of Budarsingi polling station on 23rd April, 1967, and at the request of the villagers, the respondent donated a sum of Rs. 1,000 to complete the excavation of a well in return for their votes. Kavuri Venkaiah, an agent of the respondent, paid that money to Giridhar and Judisti, members of the village Youth League in the presence of the Sarpanch and village elders.

This alleged corrupt practice has been categorically denied by the respondent in his written statement. It was averred that the respondent or his election agent did not go to that village; they did not convene any meeting; nor was there any payment made by Venkaiah.

In support of his contention the petition examined P.W. 17 and P.W. 18. In rebuttal the respondent examined himself (R.W. 19), his election agent (R.W. 31), Kavuri Venkaiah (R.W. 28), Giridhar Kumar (R.W. 13) of Patakota, and two others of the same village (R.W. 17 and 18), all named by P.W. 17 have been examined.

P.W. 17, who claims to be the President of Patakota Yuva Jana Sangham, deposes that 3 or 4 days prior to the date of election, i.e., on 23rd or 24th of April, 1967, Latchanna, Ranga, the Swatantra Party leaders, alongwith Panchayat Samithi President and Others came to Patakota in three jeeps and held a meeting at 4 p.m. Before holding the meeting, Latchanna had sent word through Hari Narayan Dalai (R.W. 17) to him. It was a public meeting well attended by the elders and others of the village and people of other villages as well. In the meeting Latchanna and Ranga Garu said: "We will do whatever you want. Give your votes to the Swatantra Party." Thereupon the witness told them that there was no well of drinking water in the village and that he might be paid Rs. 1,000 for sinking such a well. At this Ranga Garu paid through one gentleman a sum of Rs. 1,000 in the shape of currency notes. The witness says that he asked for this money at the instance of the elders. They had asked him to put forth that demand himself as they did not know how to speak Telugu. Giridhar (R.W. 13) also was with him but the money was paid into the hands of the witness. He says that thereafter the well was sunk on the site belonging to his joint family. It took 2 or 3 months to sink the well. The amount donated was not found sufficient for the purpose. A further sum of Rs. 300 was raised by subscription. After sinking the well, the site on which the well was sunk, which was five cents in extent, was conveyed by him under a registered deed to the Samithi so that whenever repairs may be found necessary, the Panchayat Samithi may undertake the same and keep the well in order.

That is the text of his evidence. But it would appear from the testimony of the witness himself that the Yuva Jana Sangham, of which he claims to be the President, is neither a registered institution nor the Samithi records bear any reference to it. Further, the site on which he is said to have sunk the well and later conveyed to the Samithi, according to him, belonged to the joint family of which he is not the Karta. His parents are alive and further he is the youngest of the three brothers. It is not the case of the witness that the Karta or any of his elder brothers had conveyed that land. He claims to have conveyed the same all along under a registered deed dated 31st July, 1967. He does not know the name of the scribe to the deed. He has produced neither the original nor the certified copy thereof. The fact of conveyance is denied by the respondent and so also the excavation of a fresh water well. The witness says he maintained an account book with regard to the money given to him and spent on the well. He did not produce the same. It is, therefore, clear but for *insidit* of the witness, no record is produced in the Court to lend assurance to his testimony. The production of documentary proof was necessary because, as we will presently see, the witnesses named by him have denied all these facts and further the testimony

of the witness on all the particulars given does not accord with probabilities. When the elders of the village were present in the meeting and it was at their instance or on their behalf that he made demand, there was no reason why the money was not paid into their hands and they were not at least associated with him in subsequent activities or with the act of sinking the well. His story is that there is Yuva Jana Sangham and he is the President thereof and knows better Telugu than any other of the villagers and therefore he asked for the money, received and spent the same himself. The existence of the Yuva Jana Sangham is not admitted by the respondent. There is no record whatsoever to show its existence. There is no document to vouch for the fact that he laid out this money in sinking a well on his land, and this land he conveyed to the Samithi. Being the youngest member of the family, it cannot be readily presumed that he would thus single handed convey the family land, which does not stand in his own name, to the Samithi. Besides, the very contention that Latchanna and Ranga Garu and others came in 3 jeeps, in view of the condition of the road in that area, cannot be readily accepted. On his own showing there was no notable track of path to reach Pathakota. He says Pathakota cannot be reached without crossing Mahendra Tanaya river. There is no bridge over it and one has to walk for six miles in sand. Cars and carts cannot come. This is sufficient to conclude that the village is inaccessible for jeeps. In re-examination, however, it was elicited that there are two ways from Sompeta and one of them is a car-track up to Budarsingi. But the river in any event cannot be avoided. It may be noted that all the witnesses named by him and who belong to his village have effectively rebutted his testimony in all material particulars. Hari Narayan Dalai (R.W. 17) is the village elder and was the person through whom according to P.W. 17 Latchanna sent word that he would come to the village and hold a meeting. He has categorically denied the same. He has also denied that during the bye-election period Ranga and Latchanna ever came to his village or held a meeting in which P.W. 17 asked for money or that a sum of Rs. 1,000 for excavation of a new well or for completion of an old well was paid to P.W. 17 in return for a promise of votes for the Swatantra people. He also stated that P.W. 17 did not sink any well after the bye-election and that there is an old well from which the villagers take water. He further deposed that cars and jeeps cannot come to his village on account of the river Mahendra Tanaya and also sand. There is no reason to disbelieve this witness who is a village elder and must be in the know of things.

The other village elder Mansingh Kumaro (R.W. 18), fully supports him in relation to the fact that Ranga and Latchanna did not visit his village during the bye-election.

R.W. 13 is Giridhar Kumar who, according to P.W. 17, was with him at the time of the meeting and in his presence the money was received by him. R.W. 13, negatives the same. He states that there is no Yuva Jana Sangham in his village nor is he or Judhisteri Kumar (P.W. 17), the member thereof. He deposes that Latchanna and Ranga did not come to his village either on 23rd April, 1967, or any other date nor did they hold any meeting there. He further says that it is not true that they paid Rs. 1,000 to P.W. 17. He also speaks of an old well from which the villagers take fresh water and says that no repairs were effected to that well during or after the bye-election nor any fresh well sunk. He further deposes that his village is not accessible by car or jeep. Mahendra Tanaya has necessarily to be crossed to come to his village. He speaks of the two ways from Sompeta and also of cart-track from Budarsingi to Belliputtia. There is no cart-track after Belliputtia.

Thus it is clear that P.W. 17, is not supported by his village elders and the member of his own Association in whatever he has said. His deposition further, as already seen, does not accord with probabilities. It is, therefore, not possible to accept his testimony. Of course, there is P.W. 18, who supports him. P.W. 18, is evidently a partisan witness and his presence there in the circumstances is open to serious doubt. He belongs to the group of Majji Tulsidas who is a Congressite. Both in the general election and the bye-election he (P.W. 18), worked for Majji Tulsidas. He had supported the petitioner in the general election and also in the bye-election. He says nevertheless that Latchanna, Ranga, Dali Bandhu and other had gone to him and the Samithi President who belongs to the Swatantra Party invited him to the meeting. It is on that account that he went and attended the meeting. It is not probable that the Swatantra Party leaders would invite him to a meeting convened by them especially when they were promising and giving some help to the public for votes. They cannot thus invite evidence against them especially when it is plain that P.W. 18, does not evidently belong to their party and is an active worker for the rival party. His relations

with Majji Tulsidas are not confined to party politics but as the suggestions go they extend far beyond even into the business sphere. He has a forest contract business in Orissa. Thus it is highly improbable that P.W. 18, was invited for the meeting or that he had accompanied the Swatantra party leaders. His evidence in one respect is not in conformity with that of P.W. 17, either. He says that Latchanna told in the meeting that as the people there were supporting in the previous election, they may support in the same way and whatever help they want, they would give. There upon P.W. 17, said that they dug a well to some extent in that village but had not sufficient funds and if the party could give Rs. 1,000 they would vote for the Party and would complete the construction. This is not how P.W. 17, has stated. What he asked for was money for excavation of a well and not for completion of the excavation work that had already started. P.W. 18's version thus conforms with the averment in the petition but not with the statement of P.W. 17. He speaks to the existence of Yuva Jana Sangham in the village of which P.W. 17, is the President. But he admits that he does not know personally about the formation of Yuva Jana Sangham. He admits that it is not registered. He says that Rs. 1,000 were paid by Venkaiah and the well work was completed by P.W. 17, in his patta land. Whether he executed any deed or not he does not know. He says that the excavation was started even before the general election. That is not what is said by P.W. 17. He says that jeeps can come to that village even though, according to him also, there is Mahendra Tanaya river which is to be crossed and there is no formed way or cart track at least after Ballipattia.

The testimony of this witness who is a partisan cannot be preferred to the evidence adduced by the respondent. Respondent (R.W. 19) has stated on oath that neither he nor Latchanna had gone to Patakota and paid Rs. 1,000 through Venkaiah. Venkaiah (R.W. 28) also had denied that any such payment had been made through him or that he had gone out of Srikakulam to Patakota. Latchanna (R.W. 31) also has denied the same. In this premises, when the evidence adduced by the petitioner is not convincing and is wholly rebutted by the witnesses named by P. W. 17, himself and also the respondent and his election agent, the corrupt practice pleaded cannot be held to be established. The evidence on behalf of the petitioner is marred by improbabilities. It cannot therefore be accepted at all. At any rate, the evidence on behalf of the respondent is sufficient to disprove the corrupt practice alleged. Issue No. 5, is therefore, held against the petitioner.

Issue No. 6.—Now we come to part II of the petition which consists of paras 2(a) to (d) containing allegations of corrupt practice falling under Sec. 123(5) of the Representation of the People Act, though in para 2(a) reference by mistake has been made to sec. 125(4). In the main para (2) the petitioner has said that the election agent Sri Gowtu Latchanna had procured a number of lorries, jeeps, cars, buses, etc., for free conveyance of the voters to the polling stations on 27th April 1967, the date of the poll. Then in sub-paras (a), (b) and (c) he has alleged various instances where use of specific jeep, lorry or bus has been made for free conveyance of voters on the day of poll at distinct places. Substantive para 2 containing an omnibus allegation does not refer to the number of the buses and other vehicles nor does it name the places for which they were procured. It does not in terms make any reference to sub-paras (a) to (c) nor does it contain at the end the words such as "they were used as follows:" Para 2(d), which comes at the end, however, states thus: "Thus this is a corrupt practice under Sec. 125(4) of the Act." As already stated, Sec. 125(4) is a mistake for Sec. 123(5). Sub-paras (a) to (c) which refer to the use of vehicles, do not in terms say that they were hired or procured by the candidate, his agent, or any other person with the consent of the candidate or his election agent. As substantive para 2 refers to procurement for free conveyance of voters to the polling stations on the day of the poll and the sub-paras (a) to (c) to the use of specific vehicles for free conveyance without specifying that the vehicles referred to therein were either procured or hired, it is contended on behalf of the respondent that the allegations in sub-paras (a) to (c), even if accepted in entirety, do not make a corrupt practice for lack of one of its component elements. On that basis it is urged that the petition does not contain any allegation of corrupt practice falling under Sec. 123(5) on which the parties may join issue. It is also urged that the substantive para 2 is as vague as could be as it does not contain the requisite particulars as enjoined by Sec. 83 of the Representation of the People Act and hence it cannot come up for consideration at all and must be struck off. In the alternative it is urged that the allegations as made, even if be deemed to be sufficient to make a corrupt practice, are factually untrue.

It admits of no doubt or dispute that procuring or hiring of any vehicle by the candidate or his agent or any other person with the consent of the candidate or his election agent for free conveyance of voters to or from the polling station is a corrupt practice and so also is the use of such vehicle for the said purpose. Sec. 123(5) of the Representation of the People Act is express and explicit in this behalf. It is equally clear that the allegations in the petition will be put to proof only if they make out a corrupt practice. So then, if any of the constituent elements is missing there may be no occasion for inquiry thereinto. The contention of the respondent is that the sub-para (a), (b), (c) and (d) should be read independent of the main para 2 of the petition and if so read, the allegations therein will be found deficient to make out the alleged corrupt practice. The justification for such a construction is sought to be based on the absence of any express words in the main para which may connect it with the sub-para. It is difficult to accept this contention. Notwithstanding the absence of express words there is sufficient context to establish close connection between the main para and its sub-para. A reading of the entire para will show whereas in the main para procurement of lorries, jeeps, cars, buses, etc., for free conveyance of voters on the day of poll to the polling station is pleaded, which by itself may be a corrupt practice, the use of some of these vehicles has been detailed in sub-para (a) to (c) and in sub-para (d) it was concluded that this was a corrupt practice within the meaning of the Act. Thus the whole para, of which sub-para are but parts, is intended to contain one idea running all through. It cannot be said that the vehicles referred to in sub-para (a) to (c) are different from what are referred to in the main para. Of course, the numbers of the vehicles have not been given in the main para, nor the other details of procurement except that it (the procurement) was by G. Latchanna. It was probably because the petitioner did not choose to rely on the main para as constituting a distinct offence. The stress seems to have been laid on the use of the procured vehicles for free conveyance of voters as constituting a corrupt practice. Thus the main para which referred to procurement of vehicles was intended to be a part of the sub-para that followed which set out different instances of use of such vehicles. One would do well to bear in mind that it is not uncommon that the drafting of the pleading is clumsy and inartistic and therefore, the punctuation of the sentences and the words used in the petition ought not to be so meticulously and rigidly looked into as though they were the words of the statute. What matters most is the substance and not the mere form. The absence of express words showing procurement, in sub-para (a) to (c), will be a matter of little import when the context warrants reading of such words therein and the whole scheme of the para shows that it contains one central idea and the sub-para, read with the main para, make a complete whole. In my opinion, the main para refers to procurement and sub-para (a) to (c) refer to various instances wherein some of the procured vehicles were used. Sub-para (d) declares at the end that the said instances make out a corrupt practice. That being the case, the allegation of corrupt practice cannot be held for want of certain words to be deficient and it can be legitimately inquired into. That is how issue No. 6(b) should be answered.

I take up then issue No. 6(a) which relates to three specific instances of use of procured vehicles for free conveyance of voters. The three alleged instances are separately set out in sub-para (a), (b) and (c) of para 2 in the petition.

It is alleged in para 2(a) that a jeep APK 9486 was used for the free conveyance of voters from Killoi village and Killoi Colony to the polling station at Konkadapatti on 27th April 1967 between 10 A.M. and 2 P.M. It had a Swatantra flag and Dunkuru Mangulu, an agent of the respondent, was in that jeep. This incident was witnessed by the Presiding Officer at the polling station to whom Hadia Naiko, the agent of the petitioner, had complained.

The respondent denied the said jeep, having been used for conveyance of the voters as alleged. According to him, it belongs to the Swatantra Party and stands registered in the name of Sri Narayan Dandekar, one of the Secretaries of the Swatantra Party. It might have moved in the constituency with Party workers on Party work but never for free conveyance of voters.

P.W. 10, Papi Naidu, the presiding officer, P.W. 20 Hadia Naiko, the agent of the petitioner, and P.W. 26, D. Ramamurthy, have been examined on behalf of the petitioner to substantiate the alleged corrupt practice.

P.W. 26 claims to have been entrusted with the said jeep at Sompeta to deliver it to Dunkuru Mungalo, the polling agent of the respondent at Konkadaputti. According to him it was the jeep (APK 9486) which Latchanna had brought from Guntur side for purposes of election. The avowed purpose of delivering the jeep to the polling agent was bringing of voters from neighbouring villages to the polling booth for casting their votes. His case is that it was so used for that

purpose from 10 A.M. to 2 P.M. He said in the beginning that he reached Konkadaputti by 9-30 A.M. and remained near the polling station up to 2 P.M. asking voters to vote for star symbol—a statement to which he does not stick on in cross-examination. He claims to be a member of the Swatantra Party and a member of the Swatantra Town committee besides being a member of Sompeta Panchayat Committee. He says he is related to Latchanna and had worked for the Swatantra Party under his leadership. This assertion which he makes to render his mission to Konkadaputti probable, is categorically denied on behalf of the respondent and it is averred that far from being a trusted person of Latchanna, he is not even a member of the Swatantra Party. In fact, he had worked against the party in general and against Latchanna in particular in both the general elections and the bye-election and worked for the Congress. The witness has been cross-examined on various points. He failed to impress me to be a witness of truth. He professes to be an agriculturist owning two plots of arable land, about 8 acres and odd in extent in two different villages, both one mile apart from each other and at a distance of more than one mile from Sompeta, his place of residence. According to him, he belonged to no political party before and was introduced by Latchanna into the Swatantra Party at the time of 1962 election. He cannot give the date. He claims to be a life member having paid a subscription of Rs. 3/-. This may be true only if he was a permanent member in 1962 itself (see Ex. P. 849). But his very membership is in dispute. Every member is given a card. He has produced none. He says he got a receipt for his subscription paid but that is lost. He claims to have received a booklet also but he has not produced it. If he in sooth ever received a membership card, he should be in a position to say definitely about its size, shape and colour. He admits that he cannot say as to the size of the card and whether it is big or small. Nor can he say about its colour. The vagueness and uncertainty which thus permeates his statement casts shadow of doubt on the truth of his membership. Questions were also put as to his alleged election for the Sompeta Committee. Whereas he says that he was elected in 1964 he is not in a position to give the date or month or even the season. He cannot even say who is the Zilla Party President, Vice-President or Secretary. He says he has agendas with him of 70 or 80 meetings but expresses his inability to produce them even if he is given time for the purpose. His testimony thus does not inspire any confidence. The very fact that he is a member of the Swatantra Party itself is open to grave doubt. Stress has been laid on his presence in the photo, Ex. P. 846, which is alleged to be the group photo of the Swatantra Party workers. The flags shown therein and claimed as of the Swatantra Party are not identifiable. There is no evidence whatsoever on what occasion the said group photo was taken. The age of the photo is unknown, whether it was taken after the Swatantra Party was formed or before. Of course there are certain badges on a few persons but not all of them are identifiable. P.W. 26 has no badge whatsoever. The photo itself was produced in the Court at a very late stage. R.W. 31, to whom it was shown for the first time is not in a position to recall to memory the occasion for it. It is not as though it was the photo exclusively of persons who are now in the Swatantra Party, for according to Latchanna there are others also. In these circumstances, much significance cannot be attached to his presence in the group photo. There is no evidence also that he is related to Latchanna. In the cross-examination, which is not consistent with his statement in examination-in-chief itself, all that relationship he can claim with Latchanna is that he belongs to the same caste. There is thus nothing to suggest that he was the trusted person of Latchanna. He could not possibly be so when according to his own statement, he divulged all information to S. Veerabhara Rao a Congress worker, just ten days after the election. What was the necessity for his being sent there when that work could be as well done by the driver of the jeep itself? It is not as though he knows Dunkuro Mungalo from before. He says he heard about him and saw him only for the first time that day. It is significant that he does not say who had sent him. He does not know even the name of the driver who drove the jeep nor the place to which he belongs. He remembers the number of the jeep simply because he went to Konkadaputti that day. He does not likewise remember the number of any other jeep or car. He says he went three times to Konkadaputti for canvassing and that it is in Mandasa Taluq, which is not true. He does not even know how many villages are under that polling station. That is sufficient to render his statement in cross-examination that he was taken by Dunkuro Mungalo to villages for bringing voters doubtful. As already noticed, this statement is inconsistent with his examination-in-chief. There were two polling agents for the Swatantra Party: one Dunkuro Mungalo and the other Dola Appalaswami. The witness says that he met Dola Appalaswami on 27th April at 10 A.M. outside the polling station about 100 yards away from it. According to him Dunkuro Mungalo also was outside the station. When the polling had started from 7 A.M. and there was

no break and at least one polling agent had to be inside to watch that there was no impersonation, it is not possible to believe that both the polling agents of the Swatantra Party were outside. His testimony in other respects also does not accord with that of the other witnesses. His version of Hadia Naiko's objection is this: That Hadia Naiko said that the workers should not make propaganda and should go away from there. This is in direct conflict with the version of Haida Naiko who said that he told Dunkru Mungalo that it was not proper to bring voters in jeep car. Such a wide divergence between the two statements cast doubt on the happening of any such event at all. With regard to the time of polling also, the version of P.W. 26 does not accord with P.W. 10, who says that polling went on without a break from 7 A.M. to 5 P.M. The witness on the other hand says polling was over by 2 P.M. and he went away thereafter. Thus it will be seen that his statement is opposed to probabilities and replete with self-contradictions and does not also accord with the testimony of P.W. 10 and P.W. 20 in some of the material particulars. It is impossible to place reliance on his testimony.

It is nevertheless urged that bill No. 39, Ex. P-742, would show that on 27th April, 1967 thirty litres of petrol were taken at Sompeta for the jeep and this by itself must probabilise the story of P.W. 26. It is not the case of P.W. 26 that petrol was taken in his presence for that purpose or that he himself took the petrol. Reliance on the said bill for proof of the corrupt practice is of no consequence.

Then there are statements of P. W. 10 and P. W. 20. P. W. 10 is an upper division clerk who was appointed presiding officer for the polling day. He, of course, says that there was a complaint made by the agent of the petitioner that the voters were being brought by the Swatantra Party people to the polling station and he even says that he saw voters getting down the jeep and joining the queue and that there were 7 or 9 such voters. But he admits that the people who were getting down the jeep were not known to him, that he had no opportunity to get them identified, that they had joined the queue but whether they were voters or not, he cannot say. He further says that he asked the agent to put his complaint in writing but that was not done. The said agent was new to him. He never saw him afterwards. He also says that he did not mention this incident in the report as such complaints are not usually mentioned at all. This witness does not give the number of the jeep nor does he say that he saw the Swatantra flag thereon. He cannot vouch for the fact that those who got down were voters themselves or that they had voted at that polling station. Apart from this, if R. W. 12's version of the topography of the polling station is to be believed, it must be concluded that P. W. 10 could not thus see what had happened outside. Be that what it may, the testimony of P.W. 10 does not satisfy all the component elements of the corrupt practice alleged.

P. W. 20 is the polling agent of the petitioner who deposed that Dunkro Mungalo was bringing the voters from Killol Colony and Kil'oi village from 10 A.M. to 2 P.M. and on seeing this, he told him that it was not proper for him to bring the voters in jeep cars and on his assertion of his rights, he complained to the presiding officer who asked for a written complaint which he could not comply with as he was not proficient enough to write one and as none on behalf of the petitioner had come who could do the needful. This witness also does not give the number of the jeep nor the names of the voters. If the voters were really brought in his presence, there is no reason why he did not name them.

The alleged corrupt practice, be it noted, consists in using the procured vehicle for free conveyance of the voters to or from the polling station. The procurement of the jeep for free conveyance is not proved. P. W. 26's statement—that it was brought from Guntur side by Latchanna cannot be correct in view of the number plate alleged. The use thereof also for the said purpose is not established by the material on record. P. W. 26 cannot be believed. The statements of P.W. 10 and P.W. 20 are highly deficient. R.W. 12 has rebutted their testimony and there is no reason to disbelieve him or accept in preference to him the testimony of P. W. 10 and P. W. 20 which, as already noticed is deficient. R. W. 1 and R.W. 31 have spoken about P.W. 20 and also about the jeep. It is unnecessary to discuss their evidence when it is clear that the petitioner has failed to establish the alleged corrupt practice.

Notwithstanding the unsatisfactory state of evidence adduced by the petitioner, stress has been laid on the principle enunciated in **BALWAN SINGH versus LAKSHMI NARAIN** (99) A.I.R. 1960 S. C. 770. But reliance thereon is of no avail when the evidence adduced by the petitioner is in no sense unimpeachable.

The next instance of corrupt practice alleged consists in the use of lorry APK 9250 for free conveyance of the voters to the polling station of Guttavalli from

the surrounding villages which are within a distance of four miles. The case of the petitioner is that the lorry was flying the Party flag and the voters were brought in it to the polling station between 10 A.M. and 4 P.M. and in one of the trips when the voters raised slogans there was a free fight and a complaint was given by some of the voters including Kolla Appanna and Sarpanch of Singannapalem admitting therein that while they were being conveyed to vote for the respondent, there was obstruction from the supporters of the petitioner viz., Sannapala Narsimha Apparao and his son and that free fight ensued.

The respondent in his written statement denied the truth of the allegation of free conveyance of voters or the knowledge that any such incident had taken place or that the respondent or his election agent in any manner was concerned with it.

The petitioner had not, originally, given the number of the lorry even. He did not give at all the names of the various voters who were conveyed nor the agent of the respondent who conveyed them. The petitioner is silent in that behalf even now except that in the amendment one of the voters has been named as Kolla Appanna and another is referred to as the Sarpanch of Singannapalem.

In support of his allegation the petitioner has examined P.Ws. 12, 16, 21, 24, and 27 and relied on Ex. P-755 to 759. In rebuttal the respondent examined R. Ws. 7, 11, and 23 and referred to Ex. R-26 (F.I.R.).

P. W. 12 is Kolla Appanna who says that Jammuna Joji (R. W. 7), an M.L.A. from Palakonda, and G. Kameswara Rao, Vice-President of Palakonda Samithi, came to his house at 10 P.M., a day prior to the election; that Joji gave him Rs. 100/- and said that a lorry would come the next morning at 7 O'clock and he should come in that lorry and bring the voters. Accordingly the next day a lorry came at 7 A.M. He and others, 70 persons in all, went in that lorry to Guttavalli polling station. As soon as they reached the station and the lorry came to a halt, and voters within raised slogans, people there asked whether they had come to vote for the Swatantra Party. Then they threw stones and mud and began to beat with sticks. Getting panicky, they took to heels. The witness was the only person who was caught. He was beaten on the left side of the chest and on the back of the head. Of course he came to know later that one Ramaiah also was beaten. The witness fell unconscious on account of injuries. A jeep came there in which were seated Jammuna Joji and G. Kameswara Rao. What happened thereafter the witness does not know. He regained consciousness two days later. He was in the hospital for five days. The police interrogated him on the third day of the incident and recorded what he had stated. This in short is the version in his examination in chief. It is significant to note that though from the way in which he narrated the event it does not appear that he had or could have gone to the booth and exercised his franchise, nevertheless in the early part of his statement he says that they all went and cast their votes. In cross-examination he was asked whether he was taken to the police station before he was taken to the hospital. He says he does not remember. He says as against the averment in the petition that he gave no report of the injuries nor does he know whether any other person had given report. He denied that the head constable had recorded his statement. He says also that Swatantra Party people did not come to him when he was in the hospital nor did they take interest at any time thereafter. About the persons who beat him he names one Sanapala Narasimha Apparao and says his son also beat him. Narasimha Apparao, who has been examined as P. W. 21, does not support him in this behalf. About Joji he says that he is not his friend, nor his acquaintance either, except that he chanced to see him before in the Swatantra Lodge at Palakonda when he went there. He says he himself belongs to no party.

It may be seen that about payment of Rs. 100/- to him by Joji, this is the sole statement. Even the election petition does not allege any such event. Apparently there is no reason why Joji should have chosen him and paid him the said amount when he had no contacts with him from before and the witness did not hold any position of importance in the village. The purpose for which it was paid and how the money was dealt with has not been also deposed to by the witness. He cannot further give the number of the lorry. Even in the petition as originally filed, there was no reference to the number. His assertion that he went in the lorry is highly doubtful even because Ex. R-26 (F.I.R.) refers to carts and not lorry in which the voters had gone. Of course, he is not the person who gave report though according to the petition he was one of them. He may, therefore, not be bound by the version in Ex. R-26. But the inconsistencies and improbabilities found in his statement cannot escape one's notice. His statement that he exercised his franchise that day in view of the story deposed to by him is palpably false.

The next witness is P.W. 16. He is the President of Singannapalem Panchayat. According to him, he along with others, about 70 in all, both men and women, went free in the Swatantra Party lorry to Guttavalli on the day of the poll. The lorry came to a halt at a distance of 50 yards from the polling station. He got down from the front seat and went to the polling station. All others also got down from the lorry, took coffee and refreshments and began to raise slogans. The Congress Party people asked them not to say 'Jai'. But the other people persisted. There was then a hubbub. The witness then went into the polling station. That is the gist of his testimony in examination in chief. Evidently this version does not accord with that of P. W. 12. P. W. 16 does not besides speak at all about the beating or free fight even though in the Election Petition it is alleged that he too with others had lodged a complaint about the fight. On the other hand, when questioned in that behalf he categorically denied to have either seen the fight or the persons being injured. He did not stay at the polling station long. After casting vote he returned to his village by footpath. If after the people in the lorry got down from the lorry, there had occurred any incident of stone and mud throwing and beating and any of the Singannapalem people was injured, the witness who is President of Singannapalem itself if present at the time could not be so indifferent. His travel by lorry is therefore open to doubt. His version that he started after meals and reached at 9 A.M. also does not accord with the version of P.W. 12.

The next witness is P.W. 21, Sannapala Narasimha Apparao, whose close relationship with the petitioner has been referred to in the earlier part of this judgment. What he says is that 60 or 70 persons, male and female, who came in the lorry of the Swatantra Party raised slogans not only of 'Swatantra Party Ki Jai' but also 'Rajagopal Rao Nasinchali'. Thereupon he went to them and said that they should not raise such slogans. 10 or 15 persons out of them persisted in raising such slogans. Some of the villagers who had come there came to grips with them. He intervened but to no purpose. Then he went away. Kolla Appanna received some injuries and some others also. At that time his son was in the polling station at a distance of 200 yards away from the place of occurrence. It must be remembered that according to P.W. 12 this witness and his son had taken prominent part in beating him but his version is wholly different. He cannot say about the report also whether it was made against him or not. His testimony being interested cannot advance the case of the petitioner. As already noticed, what is of substance for the purpose of establishing corrupt practice is that it must be proved that the lorry was procured and used by the respondent or his agent or any other person with the consent of the respondent or election agent, for free conveyance of the voters. The witnesses have not given the names of the voters nor is there any proof that they were conveyed to the polling station in a lorry procured for the purpose by the respondent or his agent or any other person with the consent of the respondent or his election agent. Neither the testimony of P.W. 24, the brother of P.W. 21, who is again a highly interested witness and who was interrogated by the police along with several members of his family nor the version of P.W. 27, the Sub-Inspector of Police, Palakonda, who, it is said, investigated the case after registering it very late and sent a final report about the incident, can advance the case. According to the latter the entry in the general diary, the first information report and the statement of Kolla Ramayya showed that the people of Singannapalem had gone in carts to the polling station and not in a lorry. This again cuts at the root of the contention that any lorry was procured and used for the free conveyance of the voters. Reliance has been placed on the statement of Kolla Appanna (Ex. P. 756) which he made before the police a few days after the incident and it is urged that the testimony of the said witness can be acted upon as the prior statement corroborates him that he came in Swatantra Party lorry. It is true that a former statement made before the police may be used for purposes of contradiction or corroboration in civil cases under the provisions of the Evidence Act but if the statement itself does not bear scrutiny, corroboration of the kind is of no avail. Besides, the position of Kolla Appanna is no better than that of an accomplice. His is a tainted evidence. Corroboration from his own statement cannot be of any consequence. It is plain that the petitioner has failed to establish the various elements which constitute the alleged corrupt practice.

R. W. 7 and R. W. 11 have categorically denied that they went a day prior to the election to Singannapalem or paid Kolla Appanna Rs. 100/- or any amount and told him that a lorry would come on the next day to take the voters to Guttavalli. They have also denied that Kolla Appanna or any of the voters were brought in any lorry bearing Swatantra flag. According to their version while they were going from Burja to Totada in a jeep in between Singannapalem and Kotavalasa at the cross-road they saw some carts going. Four of five persons came, stopped

the jeep and asked Joji whether he was not the M.L.A. of Palakonda and informed him that they were going to Guttavalli to cast their votes. They asked him whether he was coming to Guttavalli polling station. He told them that after seeing Totada Polling station, he would come there. The Carts then went towards Guttavalli, and R. W. 7 and R. W. 11 went in the jeep to Totada polling station. From there they came to Guttavalli polling station at about 10 or 10.30 A.M. At a distance of 100 yards from the station they saw the same four carts unyoked and two persons who were injured were lying by the side. They were told that they were beaten as they had come to vote for the Swatantra Party candidate. They were requested to provide them with medical aid. The two injured were then removed in the jeep to the police station for proper action and medical aid. R. W. 7 then entrusted those persons to R. W. 11 and went on his errand. Then R. W. 11 got the report written. The injured Ramaiah gave the report. He and the other injured were then sent to the hospital in a rickshaw. Both R. W. 7 and R. W. 11 state that they saw no lorry near the polling station. The story of these witnesses is corroborated by R. W. 23 Dannana Appanna who had gone in one of the carts to Gutavalli along with Kolla Appanna, Ramaiah and others. His statement also does not support the theory that the voters from Singanapalem were conveyed in a Swatantra Party lorry. Ramaiah was not produced as he is said to have been detained in a nearby village by a relative of the petitioner. R. W. 23 referred to it. Be that what it may, it is plain that the number of the lorry is not given by any of the petitioner's witnesses. There is no evidence as to its ownership. There is practically no proof as to its procurement for free conveyance. The alleged use of it for free conveyance has not been established. Thus the contention as to the second alleged incident also must be held against the petitioner.

The third instance alleged is set out in para 2(c) of Part II of the Election Petition. This para has undergone substantial change by reason of amendment. Whereas it was originally stated that the voters were taken free in a lorry and bus from Gorrebanda and Burjuwada to the Sarvakota polling station, the case of the petitioner now is that they were taken to Gorrebanda polling station from Burjuwada, Jagannathapuram and Jaggiateru via Sarvakota. It is the further case of the petitioner that a report was lodged by Boyana Kanakaiah and B. Kamaraju with the Police Sub-Inspector of Kotturu who was an election duty at Sarvakota and the Sub-Inspector recorded the statement of the bus conductor and the lorry driver. A mediators' report was also prepared stating the number of voters who were carried in the lorry APG. 3911 and bus No. APS. 1315 to vote for the respondent.

The respondent denied the allegation made in the original petition. In the additional written statement which was filed after the petition was amended, he denied the truth of the amended allegation also. He raised demur to the absence of essential particulars as to the names of the voters and averred that there is no cause of action as the allegation does not make out a corrupt practice. He also virtually contended that the amendment raised a fresh charge.

It is clear from the evidence that Gorrebanda itself is a polling station, Sarvakota being the other polling station in the vicinity. According to the original version of the petitioner the corrupt practice consisted in free conveyance of voters from Gorrebanda and Burjuwada to Sarvakota in a lorry and bus. This cannot be true as Sarvakota was not the polling station for voters from Gorrebanda or Burjuwada. This inherent defect in the allegation cannot escape one's attention. The petitioner sought for amendment and averred that voters from Burjuwada, Jagannathapuram and Jaggalaheru were conveyed free in the said lorry and bus to Gorrebanda via Sarvakota. Inasmuch as free conveyance of voters in procured vehicles from and to the polling station alone constitutes corrupt practice, naming a different polling station, is a substantial departure in the case, and the charge thus alleged though of the same nature is a distinct and different charge by itself. On this basis it is urged by the respondent that a new charge brought after the period of limitation cannot be inquired into in view of the mandatory provisions of the Act. It is further urged that the evidence adduced is weak, discrepant and unworthy of credit. The contention of the respondent is not without force. The instance given of corrupt practice now is different from that originally alleged. The evidence adduced in support thereof besides is wholly unsatisfactory. It is the case of the petitioner that his witnesses P. W. 13 and P. W. 14 not only had witnessed the incident but also had given a report promptly to the police and the Sub-Inspector pursuant thereto detained the lorry and bus and got a mediators' report prepared. These circumstances, if true,

would lend assurance to their statements but neither the Sub-Inspector of Police, to whom the report is alleged to have been made has been examined in the case, nor the alleged report or proceedings started pursuant thereto have been brought on record. No doubt, the Sub-Inspector was cited and called as witness but the petitioner did not get his testimony recorded. He, in fact, gave him up. Then again, after the parties had closed their evidence, he applied for calling the Sub-Inspector as a Court witness. Such a request was bound to be discountenanced. Believing as he does the significance of the documentary evidence of the kind and of the testimony of the Sub-Inspector bearing on the genuineness thereof, the petitioner would not have thus hesitated to bring them on record unless they were shrouded in some mystery. Be that what it may, it is plain that the circumstances relied on to lend assurance to the use of a lorry and a bus for free conveyance of voters are not sought to be established. The only evidence then is of P.W. 13 and P.W. 14, who are cousins and not disinterested. Even their evidence does not specify the persons who used the said lorry and bus on behalf of the respondent. Nor does it show who were the voters conveyed in the said lorry or bus. The conditions of a corrupt practice coming within the meaning of Section 123(5) of the Representation of the People Act, as already noticed, are manifold. They are not satisfied unless the vehicle alleged to have been used is the one procured by the candidate or his agent or any other person with the consent of the candidate or his election agent. The same is the consequence if the use is not by any of such persons, and is not for the free conveyance of voters from and to the polling station. These conditions one and all must be fully satisfied. It is significant that the bus alleged to have been used is a public carrier which plies regularly from Srikakulam, Narasannapeta to Mandasa via Parakimidi. It is a Srikakulam bus. P. W. 13 does not know who the proprietor is. It had its night halt at Srikakulam. It goes from Srikakulam in the morning and reaches Mandasa at 10 A.M. The witness does not know when it starts back from Mandasa but it comes to his village at 4 P.M. He admits that the first trip was according to the scheduled time. He, however, states that the second trip was not according to that time. Thus it cannot be established from his statement that the bus which is a service bus was in any way concerned with the respondent. Nor is there anything in his testimony that would lead to the conclusion that it was procured by the respondent or his agent or any other person with the consent of either himself or his election agent. Not a single person has been named by either of these witnesses who may be connected with the respondent and had used this bus. All that is said is that the bus had Swatantra flag on. That does not necessarily mean that it was procured by Swatantra Party people or, at any rate, by the respondent or his agent or that it was used by the latter. If the voters were travelling in a regular service bus it cannot be a matter of ready inference that they were travelling free of charge or were brought free in a procured conveyance by or on behalf of the respondent. Further, travelling by a bus or lorry is of little consequence unless they are taken to and from the polling station concerned. Of this there is no proof at all. Above all, neither of the witnesses has named a single person brought in the bus so that it may be ensured whether he was a voter of the villages under Gorribanda polling station and was bound for that destination. P.W. 13 did not see any of them or the lorry or bus at Gorribanda. He was at Sarvakota polling station, in fact some yards away from it working for the petitioner. The villages under that polling station are different. He claims to know people of the villages under Gorribanda polling station as well and also the names of the voters there. If all he says is true and he had full opportunity to see the voters it is surprising that he has named not a single voter. According to him the voters were carried in four trips, three trips by lorry and one by the bus. On the first two occasions when the lorry made its trips, he did not make a report for according to him he did not know that carrying voters thus was an offence. It is only in its third trip that he is said to have given report first oral and then in writing. As a result of this report, according to him the Sub-Inspector stopped the lorry and took the statement of the driver. Thereafter, when the bus was seen carrying voters, the sub-Inspector, at the instance of the witnesses, went on a cycle and stopped it. It would thus appear that the witnesses had seen the voters within. But it is surprising that neither of them can name a single voter. P. W. 13 says that he did not mention in that report the names of the voters. All that he stated therein was their approximate number in the lorry and the bus. That report has not been brought on record. He has not got a copy of the report either. He cannot tell even now the names of the voters who were conveyed in the lorry or bus. The same is the case with P. W. 14. Thus the testimony of the witnesses does not make out a single vital component element of the corrupt practice alleged. Much stress is laid on the fact that the lorry described by the witnesses bears reference in Ex. P 711 which is alleged to be a statement filed along with the return of election expenses. That statement as well as Ex. P 712, enclosure to

it, are denied to have been filed by the respondent. Reliance on any matter referred to therein is therefore of no avail. If the petitioner relies on a corrupt practice to unseat the returned candidate, he can achieve his object only by affirmatively establishing the same. The fact that the lorry or bus was procured by or on behalf of the respondent, as already observed, is not a matter of ready inference nor can it be presumed that the lorry and bus were bound for Gorribanda polling station with voters in them taken free on behalf of the respondent within his knowledge or with his consent. Even if it be assumed that any lorry or bus was stopped by the sub-Inspector of Police or panchanama was made, that cannot necessarily lead to the conclusion that it was because the voters were being conveyed therein or that any corrupt practice was being practised on behalf of the respondent. All these are matters which must necessarily be proved. The lorry or the bus, it may be noted, was stopped on the road and not near the Gorribanda polling station. There is nothing to suggest that they were voters bound for Gorribanda polling station. The testimony of P. W. 13 and P. W. 14 besides being deficient is highly interested and the veracity of it is open to grave suspicion. The situation of various villages vis-a-vis Gorribanda and Sarvakota, as deposed to by P. W. 13, is far from being accurate. He belongs to the Congress Party and is apparently under the influence and obligation of the petitioner in more than one way. At pages 12 and 13 and in the early part of his cross-examination various facts have been elicited from him to prove his interestedness. The testimony of P. W. 14, who is his cousin, also does not inspire confidence in view of similar defects as found in the testimony of P. W. 13. In some respects his testimony does not accord with that of P. W. 13 either. It is unnecessary to enter into detailed discussion when it is clear that their statements even taken at their fact value do not make out all the ingredients of the alleged corrupt practice. It is also clear that according to the original averments the corrupt practice related to the free conveyance of voters to Sarvakota polling station in procured vehicles. The amended petition pertains to the corrupt practice in connection with Gorribanda polling station. If the allegation, as originally made, is to be replaced by the new allegation, the fresh charge must have been brought within the period of limitation on pain of rejection of such allegation as contemplated by section 86 read with section 80 and 81 of the Representation of the People Act and Article 329(d) of the Constitution. In this connection reference is made to *DIN DAYAL v. BENI PRASAD* (10) (15 E.L.R. 131 at 145). Of course, there it was the only charge on the basis of which the petition was filed. Be that what it may, it is a sufficient authority for the proposition that a fresh charge, which displaces the old one, cannot be countenanced unless it is brought within time. Judged from that angle also, this allegation contained in sub-para (c) must be rejected. For all the above reasons, I must decide this charge against the petitioner.

Issue No. 7 & 8.—Now I turn to Part III of the petition dealing with a corrupt practice falling under section 123(4) of the Representation of the People Act. The allegation in para 3 of the petition is to the effect that Dola Jagannadharao, the agent of the respondent, at the instance of Latchanna, the election agent of the respondent, caused the printing and publication of a leaflet containing the following false and defamatory statement in relation to the personal character of the petitioner:

- (a) that the petitioner appropriated large amounts to the tune of about Rs. 60,00,000/- belonging to the co-operative sugar factory and the Co-operative Central Bank for his own ends;
- (b) that the Supreme Court confirmed the order of this High Court punishing the petitioner for Contempt of Court;
- (c) that whether the Congress Party could not get a candidate with better character and record of selfless public service.

It is the case of the petitioner that these leaflets were printed at Sri Ramakrishna Printing Works, Sriakulam, and the printing expenses therefore amounting to Rs. 83/- were defrayed by G. Latchanna.

It is also his case that the election agent caused the distribution of these leaflets to sponsor the candidature of the respondent at the following meetings held by the Swatantra Party, among others:

- (1) at Tekkali at 7 P.M. on 20th April, 1967;
- (2) at Palasa at 11 A.M. on 21st April, 1967;
- (3) at Mandasa at 6 P.M. on 21st April, 1967;
- (4) at Sriakulam at 9 P.M. on 24th April, 1967.

Not merely this, the respondent and the election agent exhorted the people at those meetings not to vote for a person who had misappropriated public money. The contention of the petitioner is that the above statements and speeches are wholly baseless and malicious made with the object of tarnishing the image of the petitioner and lowering him in the estimation of the voters. The wide publicity of the leaflets was calculated to prejudice, if not jeopardise, the prospects of the petitioner's election. Thus the respondent committed a corrupt practice under Sec. 123(4) of the Act.

I have set out at length the averments contained in paras 3 and 4 of the petition for in this case besides denying the truth of the allegation, it was contended on behalf of the respondent that the allegation as made does not make out a complete cause of action or a charge of corrupt practice within the meaning of Sec. 123(4) of the Act. In the written statements filed, the respondent denied the allegation that either he or his election agent had any connection with or knowledge of the printing or publishing of the leaflet in question and that either he or his election agent had attended the meetings at Tekkali, Palasa or Mandasa on the given dates or time and exhorted the people in the meetings in the manner stated, or distributed any such leaflets. He averred that neither he nor Latchanna could possibly be present at Tekkali at 7 p.m. on 20th April, 1967 as they were at Srikakulam from 6 to 11 p.m. on 20th April, 1967. Likewise they could not attend meetings at Palasa and Mandasa on 21st April, 1967 as the respondent was touring in Sompeta area and his election agent was at Kota Bommali. Latchanna did not attend also the meeting at Srikakulam on 24th April, 1967 at 9 p.m. as he was in Nagarikatakam constituency. The respondent who was at Narasannapeta from 8 p.m. to 10 p.m. reached Srikakulam meeting on that day at the stage when the meeting was about to be concluded.

Disclaiming his and his election agent's knowledge or consent to, or concern with the leaflet, its printing, publishing and distribution, the respondent has averred further that he does not admit that the leaflet in question contains any false and defamatory statements or the statements therein bear on the personal character of the petitioner. His case in this behalf is this:—The leaflet purports to be based on a memorandum presented to the Chief Minister by some of the prominent people of the district including the Secretary of the Andhra Pradesh Congress Committee. It purports to question the Minister concerned what steps have been taken thereon. The memorandum referred to was in fact presented. The respondent has come to know of this on subsequent inquiry. The statement contained in the leaflet therefore in relation to the memorandum is not false. The leaflet refers also to the petitioner's being hauled up for contempt. Even that statement is not false. The respondent has come to know that the High Court had punished the petitioner for contempt of Court, and that order was not interfered with by the Supreme Court. The third impugned statement on the leaflet consists in a query to the Minister whether the Congress party could not get as its candidate a person with better accomplishments and a better record of selfless work. This, the respondent contends is not a statement of fact but a wish or opinion.

The points for consideration then in this behalf are:—

1. Whether the respondent and/or his election agent were in any way connected with the printing and publication of the leaflet or are they otherwise liable for the same? (2) Whether the facts contained in paras 3 and 4 of the petition make out a complete charge of corrupt practice within the meaning of Section 123(4)?; and (3) whether the respondent and his election agent by their speeches at the meetings specified in the para have committed the alleged corrupt practice and whether that allegations in that behalf also are complete to make out such a corrupt practice? These points are covered by issues 7 and 8(a) and (b). As the whole controversy centres round the corrupt practice under Section 123(4) of the Representation of the People Act, we may notice that provision at this very stage;

"123. The following shall be deemed to be corrupt practices for the purposes of this Act:—

(4) The publication by a candidate or his agent or by any other person, with the consent of a candidate or his election agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal, of any candidate being a statement reasonably calculated to prejudice the prospects of that candidate's election.

Explanation.—(1) In this section the expression agent includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

It is manifest from the above provision that in order to come within the ambit of Section 123(4) there should be publication and it must be: (a) by the candidate or his election agent or by any other person with the consent of the candidate or his election agent; (b) it should be of a statement of fact which is false; (c) and which the candidate either believes to be false or does not believe to be true; (d) it must relate to the personal character or conduct of the candidate or to the candidature or withdrawal of the candidate; and (e) must be a statement reasonably calculated to prejudice the prospects of the candidate's election. These conditions one and all must be satisfied to constitute corrupt practice mentioned in section 123(4).

Be it noted at the same time, that in order that the election of a returned candidate be declared void by reason of a corrupt practice, the conditions specified in section 100 of the Representation of the People Act must also be satisfied. Sub-section (1) (b) of section 100 provides that the High Court shall declare the election of a returned candidate to be void if it is of opinion that any corrupt practice has been committed by the returned candidate or his election agent or by any other person with the consent of the returned candidate or his election agent. It is significant to note that whereas section 123(4) takes in the act of an agent as well, section 100(1)(b) does not, unless he be a person who has committed the corrupt practice with the consent of the returned candidate or his election agent. Of course, sub-section (1) (d) (ii) of section 100 takes in the corrupt practice committed in the interests of the candidate by any agent other than his election agent. In that case in order to declare the election of the returned candidate void, it must further be proved that the result of the election, in so far as it concerns a returned candidate, has been materially affected by that act. In other words, one cannot be an agent unless he is an election or polling agent or a person who has acted as an agent with the consent of the candidate. The term agent used in section 100 however, according to the inclusive definition has the same meaning as in section 123 as is clear from section 99(2) of the Act. It follows therefore in order that the agent's corrupt practice may fall within section 100(1)(b) as a ground for declaring the election of the returned candidate void, it is necessary that it should have been committed with the consent of the returned candidate. If he be any other person within the meaning of the said provisions, the consent of election agent may be sufficient. Such a conclusion is inevitable on the combined reading of sections 123 and 100 of the Representation of the People Act. I do not think it necessary to enter into an elaborate discussion on this point. Suffice it for me to say that I respectfully agree with the reasoning and conclusion in this behalf of the learned Judges of the Assam and Bombay High Courts who respectively decided the cases **BISWANATH v. HARALAI DAS** (AIR 1958 Assam 97), and **SUDHIR LAXMAN HENDRE v. SHRIPAT AMRIT DANGE** (AIR 1960 Bombay 249).

So then, if the act is committed by any person other than the candidate or his election agent, the consent of the candidate or election agent assumes importance. Such consent may be express or implied. It may be direct or indirect. It may even be a matter of more inference from the circumstances of each case. As a rule knowledge of the act to be committed is essential without which consent cannot be inferred. That is not to say that consent is a synonym of knowledge, actual or constructive. Prior knowledge of the contents of leaflet and resolve to publish the same may necessarily raise an inference of consent if the candidate deliberately kept quiet and did not stop the publication which was within his power. But the same cannot be said if the publication came to his knowledge later and he did not take steps for repudiation. It is only when he permits or aids in publication by act of conversion or omission consent may be inferred. As already stated, inference of consent must depend upon the particular circumstances of each case.

With these remarks, I proceed to consider whether the corrupt practice alleged is proved in the case. Of course, an objection has been raised as to the necessity of its being considered when the allegations in the petition do not contain material facts which make out such a corrupt practice. This aspect which is covered by issue 8(b) I would advert to only after dealing with issues 7 and 8 (a).

As already noticed, the requirements of sec. 123(4) are manifold. To recall the same at the risk of repetition, firstly, there should be a publication by the candidate or his agent or by any other person with the consent of the candidate

or his election agent; secondly, that it should be of a statement of fact as distinct from statement of opinion or the like; thirdly, it should relate to personal character and conduct of the candidate rather than to his public or political life and the statement should be false; fourthly, not merely it should be false but also the candidate must believe it to be false or should not believe it to be true. In other words, statements which are not true if made bona fide are also outside the ambit of sec. 123(4). Lastly it should be a statement reasonably calculated to prejudice the prospects of the candidate against whom it is made. The burden of proof of all these elements rests on the petitioner.

The petitioner in support of his contention has examined P.Ws. 15, and 25 to 31. In rebuttal in addition to his testimony the respondent has examined R.Ws. 1 to 3, 11, 15, 20, 28 and 29 to 31.

The case of the petitioner as already noticed is that Dola Jagannadha Rao, the agent of the respondent caused the printing and publication of a leaflet, Ex. P-357 at the instance of the election agent of the respondent and his leaflet paras (a) to (c) of para 3. It is also his case that the election agent caused the leaflet distributed at several meetings at specified places and time and both the respondent and his election agent exhorted the people not to vote for a person who had misappropriated public monies. Whereas in the petition the petitioner limited his case in respect of commission of corrupt practice to certain statements in Ex. P-357, evidence was sought to be adduced in relation to certain other statements as well found in Ex. P-357. Not merely this, instances of this corrupt practice have been sought to be multiplied by relying on certain issues of Bahujana and Vahini and other pamphlets. On objection being taken at the time it was stated that reliance on these papers has been placed only to prove that the leaflet was published with the knowledge and consent of the respondent and his election agent. Be that what it may, it is plain that the scope of the inquiry cannot be extended to charges which were not set out in the petition. The inquiry must of necessity be confined to the statements specified in para-3 of the petition and the acts of the respondent, his election agent and the other alleged agent referred to in the petition.

The first point then to be considered is whether Ex. P-357 was printed and published by Dola Jagannadha Rao at the instance of the election agent and whether the latter as alleged had defrayed the printing expenses thereof. In this behalf, the statements of P. W. 26 and P. W. 15 come up for consideration. P. W. 26 says in his examination-in-chief at page 3 that the leaflet Ex. P-357 was drafted in the house of Latchanna, by K. Chalapathi Rao Patnaik (R. W. 1) to the dictation of Latchanna in the presence of Dola Jagannadha Rao (R. W. 6). One week thereafter the leaflets were got printed by Chelapathi Rao Patnaik and Dola Jagannadha Rao. Latchanna gave them Rs. 300/- and sent them to Srikakulam. This version which implicates Chelapatirao both in the acts of preparation and getting the leaflets printed is not consistent with the averment in the petition. It is significant to note that in cross-examination he says that he cannot write Telugu though he can read a little. He also admits that he would not be consulted in any matter but whenever required they would only take work from him. As to the reason why he came there, he says a chit was sent through Kari Reddy and he was called there. That of course is his deposition, but what he really wanted to say seems to be that a chit was to be sent to Kari Reddy and so he was called. Strange enough that he reached there right at the time the leaflet was being drafted. Latchanna could write the same himself but according to the witness, he was dictating it. The witness was detained till the drafting was over.—Soon after the drafting was over, he was sent away. He saw only drafting. It was drafted and then it was fair copied. All this took place on 25th April, 1967. He cannot tell the reason, why it was not printed at Sompeta. All that he says is after the drafting was over, he was sent away. He delivered the chit to Kari Reddy and came back that day. This is all that he has said in his deposition. His statement is highly artificial. There was no occasion for his being called there at that time or at any rate for his being detained till the drafting was over when his services were in no manner whatsoever required for the purpose. I have already observed in the early part of this judgment that this witness, who is called to depose about most of the matters relating to the case in favour of the petitioner, has not impressed me as a witness of truth. The artificiality of his statement is obvious on the face of it. Further, his testimony does not bear scrutiny at all. He claims to be Swatantra Party Workers R. W. 31 and other witnesses have denied that he is connected with this Party. On the other hand it is said that both in the general election and the bye-election he

worked for the Congress and did propaganda against the Swatantra Party and Latchanna.

Dola Jagannadha Rao, as R. W. 6, has deposed that he got the leaflet printed of his own accord and not at the instance of anybody. He himself bore the expenses and paid the printing charges of Rs. 85/- on 9th April, 1967. He wrote the draft himself in his house at Srikakulam. There were none then; neither Chelapathi Rao nor any other person except himself. He did not consult anybody nor did he take anyone's advice in this behalf. Before he took it to the press he did not show it to any person. As the press people could not properly read the written matter, they got it fair-copied by their own employee and took his signature thereon. Ex. P-358 is the said document. According to him, he placed the order on 7th April, 1967 and signed the order book. Thus he rebuts the statement of P. W. 26 that the draft was written at Sompeta in the house of Latchanna to his dictation in the presence of P. W. 26 and R. W. 1. His testimony finds support from p. w. 15, the managing proprietor of Sri Ramakrishna Printing Works, who says that he, i.e., Dola Jagannadha Rao, placed the order for 10000 copies of Ex. P-357 leaflet. The publisher's name as entered in the relevant books only refers to him. He had brought the written matter on 2 or 3 pages. The manager got it fair copied and took his signature on the fair copy which is Ex. P-358. At the time when he took delivery of the printed leaflets, he paid an amount of Rs. 85/- which represented its printing charges. Chelapati Rao also came over there but only after Dola Jagannadha Rao had paid the money. Chelapati Rao had nothing to do with this leaflet. The order placed is evidenced by Ex. P-346 and the payment by Ex. P-346/1. That in short is the testimony of p. w. 15. It is clear that except that there is some difference between R. W. 6 and P. W. 15 as to the date of placing the order, for according to the former it is 7th April, 1967 whereas according to the latter it is 4th April, 1967, in every other respect one finds perfect uniformity in the two statements. Honest error in fixing the date is but natural and cannot therefore assume any significance. R. W. 1 and R. W. 31, whose connection with the drafting of the pamphlet has been deposed to by p. w. 26, have in clear terms disowned their connection. R. W. 1 did not admit that the draft was written by him. Nor did he admit that it was printed at his or Latchanna's instance. He says that he saw the pamphlet for the first time only after it was printed and Dola Jagannadha Rao had taken delivery and never thereafter. He did not ask him at whose instance and for what purpose he got them printed. R. W. 31 denied all knowledge and connection with it. Thus it is clear from the evidence adduced that Dola Jagannadha Rao had himself drafted and got the leaflet Ex. P-357, (of which Ex. P-358 is the original, and Ex. P-760 copy) printed of his own accord without informing or consulting the respondent or his election agent and himself bore the expense. It was all his personal act as he wanted to ascertain what action has been taken on the memorandum. It follows that in no way was the respondent or his election agent concerned with the preparation or the printing of the leaflet.

Preparation and printing of the leaflet is of no consequence for the purpose unless the contents thereof are published in some way or the other. It is not mere printing but its publication that is material. Dola Jagannadha Rao, of course, is an important party man. He is a member of the State Council of the Swatantra Party of which Latchanna is the President. He is the President of the Swatantra Party Nagarikatkam Assembly Constituency Committee. He had on party ticket contested for the Assembly seat in the general election of 1967. He may not have been particularly assigned any specific duty in connection with the bye-election but by virtue of his position in the party, he along with R. W. 1 was in charge of canvassing in that constituency. This is admitted by R. W. 1 and also R. W. 31. In fact he got certain tour programmes printed and accompanied Mr. Ranga in his tour to some places. He had even signed the receipt Ex. P-793/a (voucher No. 71) dated 17th April, 1967 for a sum of Rs. 750/- alongwith R. W. 1. He may thus come within the description of the term agent for various purposes of election because that term as used in election law is of wide import; but certainly not for purposes of a corrupt practice unless consent of the respondent in that behalf is established as warranted by the Explanation in Sec. 123. Be it noted, besides, Dola Jagannadha Rao had reasons to have reared personal animosity towards the petitioner, who is believed to have adversely affected his chances, political and otherwise in diverse ways. His act of getting the leaflet printed cannot therefore readily raise a presumption that it must have been done at the instance of Latchanna. In fact as already noticed he owns it as his personal act. There is no reason to disbelieve his assertion. That apart all that is proved against him is that he got the leaflets printed. Unless it is further proved that be published the same with the consent of the respondent, even if all the other

ingredients are satisfied the respondent cannot be held liable for the same nor the election can be declared void.

The petitioner has set out in the petition the manner in which the printed matter was published. It was alleged that the election agent caused the distribution of these leaflets at several meetings as specified in the petition and further both the respondent and his election agent had exhorted the people not to vote for a person who had misappropriated public moneys.

The allegation of publication, so far as the respondent and his election agent is concerned, is thus specific and categorical but in relation to Dola Jagannadha Rao it is kept vague as it is not stated in what manner he gave publicity. However, in the evidence it was put to the respondent's witnesses that the same contents of Ex. P-357 were published in Bahujana (Ex. P. 823) and Vahini (Ex. P. 822) weeklies of 17th April, 1967 and 24th April, 1967 respectively. The caption in first mentioned shows that it is a questionnaire of Srikakulam public to the Minister; rather a direct questionnaire of Nagarikatkam Swatantra Party leader Sri Dola Jagannadha Rao. The second mentioned shows that it is a questionnaire of Srikakulam public through Dola Jagannadha Rao, President of Jagannadha Swatantra Party. The headings may thus suggest that Dola Jagannadha Rao caused his printed material published in those papers. The former paper is run by Bahujana Trust and Gouthu Latchanna is the printer, publisher and editor thereof according to the declaration therein. Ex. P. 840 Bahujana of 13th March, 1967 in its penultimate page Ex. P. 840/1, contains a detailed statement of ownership and of persons concerned with Bahujana Trust and also with its printing, publishing and editing. According to this declaration, Gouthu Latchanna is the important person concerned. He is the printer, publisher and editor as well. Vahini shows at its first page the name of the Managing Editor as Sunkara Satyanarayana and member of the editorial Board as G. Viswanadham and Muktevi Sri Rangacharyulu. Mrs. Ranga's connection with this paper is not evident from any of the declarations found in the paper. Founder's name however is shown as Acharya Ranga. Each of these publications, in case they make out all the ingredients of a corrupt practice constitutes in itself a distinct corrupt practice. As such, unless the foundation in that behalf was laid in the petition it cannot be permitted to be proved. Therefore if they are relied on to prove that Dola Jagannadha Rao caused publication of the leaflet in Bahujana and Vahini, this fact not having been pleaded cannot now be put in issue. Any volume of evidence brought on record in that behalf cannot therefore be looked into. But it is urged that the purpose of relying on them is to establish that both Latchanna and Ranga had knowledge of the leaflet:—Mr. Latchanna because he is the printer, publisher and editor of Bahujana and Mr. Ranga because Vahini is concerned with his wife, and in both the papers either his photo or his message is found. On perusal of the depositions of the witnesses it is plain that the questions put to the witnesses go beyond this avowed limited purpose of proving knowledge. The contents of Bahujana Ex. P. 823/1 tally to a large extent with the contents of the leaflet Ex. P. 357. The caption however, is somewhat different only in form. R. W. 31 Latchanna was asked whether it was not he who had sent the pamphlet for publication in the paper from Srikakulam to Hyderabad. The witness denied this suggestion. This suggestion makes it clear that the petitioner's case is that it was not Dola Jagannadha Rao but Latchanna who caused publication of this article in Bahujana. But such was not the allegation in the petition. Latchanna was questioned whether he in any of the subsequent issues had disowned his connection with this article. He said that he did not know about the very issue at all. Admittedly he was not then at Hyderabad but only in Srikakulam Parliamentary constituency. In his absence he says his brother's son G. Kranti Kumar was editing the paper. When questioned he denied the suggestion that he had sent the article or had asked Kranti Kumar to publish the same. The particular issue of Bahujana contains the photo of Ranga on the front page. The witness R. W. 31 cannot say with what idea the photo was published by the editor. He says he did not see this paper at all as he was busy during election. He was also asked about the publication of Ex. P. 809 in Bahujana Ex. P. 823/3. Ex. P. 809 is an appeal to the students, and purports to be signed and issued by K. Krishnamurthy (R. W. 14) and Pyda Subba Rao with Swatantra party election symbol thereon. K. Krishnamurthy is admittedly party worker, party supporter and canvasser. The pamphlet purports to be printed at Ramakrishna Printing Works, Srikakulam. It was put to Latchanna that this pamphlet also which contains defamatory statements with regard to the petitioner was prepared, got printed and was sent by him to Hyderabad for publication in the Bahujana. This suggestion was categorically denied by him. He was further referred to Ex. P. 804(a) which refers to the accusation of Gorla Sri Ramula

Naidu and Desu that the petitioner had utilised the funds for his selfish ends. If the avowed purpose of these suggestions be that the election agent was responsible for the preparation and publication of these various documents, there should have been such allegations also in the petition itself. Any amount of evidence adduced cannot be a substitute for the absence of such a pleading. Whatever evidence is thus sought to be brought on record has to be eschewed. So far as knowledge is concerned, as already observed, in order to infer consent therefrom it must be anterior to publication and not subsequent thereto unless it is a case of repetition, where prior knowledge may raise inference of consent. Further for purpose of the corrupt practice where element of mens rea must be present mere constructive knowledge is of no avail. See SHEOPAL SINGH V. RAM PARTAP (13) A.I.R. 1965 S.C. 677. Of course great stress has been laid on the statutory provisions of the Press Act bearing on the question of inference of knowledge and liability of the editor for the articles appearing in his paper. For the purposes of the present inquiry the presumption under the Press Act, for the above reasons may not be of much significance. Further, the question of consent would arise when the agent has published the impugned statement. If it were the case of the petitioner that the agent had published the contents of Ex. P. 357 in the said papers, it would have been clearly stated so in the petition. Then alone the question whether the said publication was with the consent of the respondent and his election agent would have fallen for the consideration. There would have been then some occasion for going into various implications of the objectionable matter being published in the election agent's paper. Obviously the petitioner did not think of these publications in Bahujana and Vahini at the time of filing the petition and did not intend to bring charges of corrupt practices on their basis. That is the reason why he confined his charge in this behalf to the distribution of leaflets in the meetings and exhortations by the respondent and his election agent. He had alleged also that the election agent himself was instrumental in causing printing of the leaflet by the agent. When the charge was thus confined the evidence brought on record in relation to Exs. P. 822 and 823 or Ex. P. 804 and 809—is not at all germane to our inquiry. Nor the contention that respondent should be deemed to have consented to publication of Ex. P. 357 by reason of its publication in Vahini paper can be tenable. It is said that the paper is connected in some manner with his wife; and that he had even expressed his thanks for the work done by that paper in support of the party during the bye-election. That cannot be a matter relevant to the issue under consideration. Inquiry into these matters would be beyond the scope and express items of paras 3 and 4 of the petition.

As the scope of inquiry is necessarily confined to the publication of Ex. P. 357 in the manner specified in paras 3 and 4 of the petition we have to consider whether the said printed leaflets were distributed at the alleged meetings by or at the instance of Latchanna and whether Latchanna and Ranga exhorted in the manner alleged. It is true if Dola Jagannadharao got printed the leaflets incurring sufficient expense, it must not have been done in vain. Ordinarily it must be expected that he would have distributed them in his constituency and sent some of them to the Ministers concerned, but the petition does not speak of his part in distributing the pamphlets. The act of distribution is attributed to Gouthu Latchanna and that is alleged to have been done in meetings at Tekkali, Palasa, Mandasa and Srikakulam. P. W. 28 speaks of distribution at Tekkali; P. Ws. 31 and 26 at Palasa; P. Ws. 30 and 26 at Mandasa; and P. Ws. 25 and 29 at Srikakulam. As against this R. Ws. 1 to 3, 8, 11, 15, 19, 20, 21, 22, 24, 29 and 30, besides the respondent and his election agent have been examined.

Now I proceed to consider how far this allegation has been substantiated, by the material on record. As already stated, the case of the respondent is that he was not present at any of those meetings except at the meeting in Srikakulam which he attended at its concluding stage. Even Latchanna's presence at certain meetings has been denied. The original tour programme of Sri N. Dandekar for the period from 19th April, 1967 to 22nd April, 1967 is admittedly Ex. P-763 dated 12th April, 1967. According to this programme on 20th April, 1967 two meetings were to be held in the morning and three in the evening and the last to be held at 7 P.M. was the meeting at Tekkali. It is the case of the respondent that the programme as originally drawn up could not be acted upon. So the changes in Sri N. Dandekar's programme in relation to the meetings of that date were notified by means of pamphlets, Exs. R. 56 to R-58. Ex. R-56 was published by Dola Jagannadha Rao and K. Chalapati Rao Patnaik, Ex. R-57 by Simm Jagannadham and Ex. R-58 by the District Swatantra party of Srikakulam. All these were got printed by 15th April, 1967. We are not, however, concerned with them for they do not relate to the change in the meeting at Tekkali for which the

relevant pamphlet is Ex. R-32. The meeting at Tekkali, which was to be held on 20th April, 1967 at 7 P.M. could not take place that day as according to the changed programme a meeting was to be held at Srikakulam old bus stand at 6-30 P.M., which Prof. Ranga, Sri N. Dandekar, Sri R. N. Sing Deo and Sardar Goutu Latchanna were to address. The meeting at Tekkali was postponed to 21st April, 1967 as per Ex. R. 28. The time for the meeting at Tekkali was fixed as 11 A.M. on 21st April, 1967. Ex. R-32 which effects the departure from the original programme of Sri N. Dandekar as found in Ex. P-763, was printed and published on 15th April, 1967. Ex. R. 28 however, which was also printed at Sri Ramkrishna Printing Works, Srikakulam, does not bear the date of printing. It is the case of the respondent that no meeting had taken place and could not have taken place on 20th April, 1967 according to the original programme at Tekkali as there was a meeting in Srikakulam at that time and that the meeting at Tekkali actually took place at 11 A.M. on 21st April 1967.

The evidence adduced by the petitioner as against this case consists in the statement of P. W. 28. P. W. 28 Kiriti Chandra Deo, does not belong to Tekkali. He is known as Raja of Surangi. He is a resident of Itchapuram and was on his way to Srikakulam to see the Chief Minister who was coming there on 21st morning and to report to him about the progress of his work of canvassing in the bye-election. He stopped on his way at Tekkali as the Zamindars of Nandigam and Tekkali are related to him. After reaching there he came to know about the meeting of the Swatantra at 7-30 P.M. at Tekkali, which the Swatantra Party Minister from Orissa, Sri Raj Vallabh Misra, was to attend. He, therefore, stayed there till about 10-30 that night. He wanted besides to contact the Oriya people there, who formed 30 per cent of the local population, to do his canvassing. According to him, the meeting started at about 7 P.M. and came to an end at 10-30 P.M. He did not attend the meeting but he was observing from a distance from the bungalow of the Zamindar of Tekkali, in which he was staying. Dandekar, Raj Vallabh Misra, Latchanna and Bharti Devi Ranga had attended the meeting. Latchanna presided over that meeting. In his concluding remarks he expatiated on the bad character of the petitioner and told the audience that Rs. 60,00,000/- were misappropriated by Rajagopala Rao and he was fined by the Court, that the foundation stone of Vamsadhara project was practically reduced to a tomb stone. He informed them that pamphlets would soon be distributed amongst them. Accordingly he caused distribution of pamphlets containing the material as in Ex. P-357. The witness in this distribution happened to get one pamphlet though he was in the bungalow. The testimony of this witness has been subjected to serious criticism in view of the fact that the place from where he is said to have seen the distribution of the pamphlets is at a distance of a few furlongs and not a few yards and he could not have possibly witnessed the meeting even if he happened to be there as narrated by him. It is further urged that in fact there was no meeting at all which he could have possibly seen. Obviously he is not a disinterested witness. The wife of Latchanna was beaten and a prosecution was started in that behalf. In that case this witness appeared as a defence witness for one of the accused in the case, Jagannadha Rao, who was according to him the Honorary Secretary of the Land Mortgage Bank, of which he was the President. The defence story was not accepted by the criminal court which convicted the accused. It is case of the respondent that Labhala Sundararao was also a defence witness in the case. Sundararao is the son and Jagannadham is the brother of Dharma Sahu, who is the proprietor of the Caltex petrol bunk at Itchapuram. The criminal case was brought against this witness on the file of the Munsif-Magistrate's Court at Itchapuram by the police at the instance of the Assistant Commercial Tax Officer, Rajagopala Rao, the petitioner. It is also alleged to be an accused in that case. The witness does not know whether a non-bailable warrant had been issued against the petitioner, and whether Dayanidhi stood as surety for him. So far as he himself is concerned, he gave a special vakalat. He does not know whether the brothers of Dharma Sahu were also accused therein. His ignorance about the case in which he is involved is rather unusual. He says he is the President of the Land Mortgage Bank at Itchapuram for which funds are received from the Central and Mortgage Bank, Hyderabad. He was also the Vice-Chairman of the Zilla Parishad prior to 1967 wherein the petitioner was Ex-officio member and his two other brothers were members by virtue of their position. He was a witness in 3 or four cases and a defence witness in a lorry case. All this would show that not only there is some grudge between Latchanna and the witness but also that he has connection with the petitioner and his party members. He himself is a Congress worker and was entrusted with the canvassing work. The testimony of such a witness cannot be accepted at its face value. It must be subjected to strict scrutiny. If his main purpose was to see the meeting and he had waited for the conclusion of that meeting only and

left the place immediately thereafter, it does not appear why he did not go near the place of the meeting or attend the same. If he really managed to get a pamphlet without going to the place of the meeting, he could have produced the same. That he did not do. On his own showing it was by accident that he happened to get information about the meeting and he stayed there. Except his bare testimony, there is no other evidence to support his story. Ex. R-28, as already stated, is inconsistent with his story. If there was a meeting at Srikakulam at that time which Dandekar, Latchanna and Misra had attended, the story that there was a meeting at Tekkali becomes untrue. There is great volume of evidence adduced on behalf of the respondent which convincingly rebuts the testimony of P. W. 28.

R. W. 15, B. Narayanaswami, is the Secretary of the Swatantra Party Tekkali Assembly Constituency. He has deposed about the tour programme of Sri Dandekar. He has also said that though according to Ex. P-763 the meeting at Tekkali had to take place at 7 P. M. on 20th April, 1967, it actually took place on 21st April, 1967 at about 10 A. M. The change in the programme was intimated under Ex-R-28. In that meeting Dandekar and Latchanna spoke and some others also spoke. He was present there as he was Secretary. Tekkali is just four miles from his village. According to him no meeting was held on 20th April, 1967 at Tekkali and there was no speech of Latchanna or distribution of pamphlets as alleged. He also says that the places of the Rajas of Nandigam and Tekkali are at sufficient distance from the Swatantra Party office, that the said distance is about four furlongs and in between is the bus stand. He vouched for the correctness of the plan, Ex. R-27. Questions were put to him in relation to the plan Ex. P-814. He disputed the correctness of the same and stated that the place from where P. W. 28 is said to have seen the meeting, is at sufficient distance and from that place the Swatantra Party office, where the meeting took place, can not be seen.

There is also the deposition of Sri Narayan Dandekar R. W. 20, who says that he reached Srikakulam on 19th April, 1967. On that day he addressed a roadside meeting at about a mile from the Srikakulam railway station. On the next day the meeting that took place at Srikakulam started at about 7 P. M. Prof. Ranga, Mrs. Ranga, Raj Vallabh Misra, Latchanna and himself had addressed the same. There were other speakers also. His whole speech was translated into Telugu by Pasupulati Koteswararao, and Misra's speech in Oriya was translated into Telugu by Latchanna. The meeting went on till late in the night, till about 10-30 or 11 P. M. Then on the 21st April, after addressing a small meeting on the way, they addressed a meeting at Tekkali. Mr. Raj Vallabh Misra, Mr. Latchanna, Mrs. Ranga and himself addressed that meeting. Prof. Ranga was not there. The meeting went on from 11 A. M. to 1 P. M. In that meeting there was no distribution of leaflets, handbills, etc. Nor did Latchanna refer to the public or private conduct of Rajagopala Rao. On 20th April, 1967 he did not address any meeting at Tekkali. The only meeting he addressed at Tekkali was the meeting held on 21st April, 1967.

Similar is the statement of Sri Raj Vallabh Misra, R. W. 30, who says that on 21st April, 1967 they addressed a meeting at Tekkali at about 12 noon. On the previous day 20th April, 1967, the last meeting that was addressed was at Srikakulam, which had commenced at about 6-00 or 7 P. M. when the darkness had set in and came to a close at 10-30 or 11 P. M. In that meeting Mr. Dandekar, Prof. Ranga Mrs. Ranga, Mr. Latchanna, and some others had addressed.

To the like effect are the depositions of R. Ws. 19 and 21. This evidence is sufficient to rebut the testimony of P. W. 23. There is no reason to disbelieve the statements of Sri N. Dandekar, Raja Vallabh Misra and Ranga which are supported by the documentary evidence as well.

The next meetings in question were at Palasa and Mandasa which were held on 21st April, 1967. As regards the Palasa meeting, of course, there is some variation between the averment in para 6 of the written statement and the evidence on record. In fact, an application for amendment was filed and it was allowed. The respondent had stated in para 6 formerly that it was learnt that Sri N. Dandekar and Sri Latchanna addressed at Palasa in the meeting held at 11 A. M. on 21st April, 1967. The case now is that it was at 4 P. M. and not 11 A. M.

According to the original programme of Sri Dandekar, Ex. P-763, the meeting at Palasa had to take place at 11 O'clock on 21st April, 1967 and at Mandasa at 6 P. M. this was changed under Ex. R-29 dated 17th April, 1967. It was expected that Sri R. N. Singh Deo Chief Minister of Orissa, would come and tour the

constituency. It is on that basis that Ex. R-29 referred to the tour programme of not only Sri Dandekar but also of Sri Singh Deo. The timings of the meetings were 3 and 7 P.M. That Ex. R-29 was printed and distributed admits of no doubt. Voucher No. 65 for Ex. R-29 is found mentioned in the return of election expenses. The case of the respondent is that Sri R. N. Singh Deo had to change his mind at the last moment and had sent R. W. 30 instead and there was not sufficient time to issue another pamphlet. It is also the case of the respondent that Latchanna and Dandekar did not attend the Mandasa meeting but went to Palasa and R. W. 30 and Mrs. Ranga went to Mandasa and addressed a meeting there. P. W. 26 says that in the meeting at Palasa Latchanna stated that Rajagopala Rao had misappropriated 60 lakhs of rupees from Co-operative Sugar Factory, that B. Narayanamurti, brother of Rajagopala Rao, beat the Co-operative Inspector, that Rajagopala Rao was fined Rs. 500/- by the High Court, that he deceived the public by saying that he would get the Vamsadhara project started and that he was trying to get funds from the public. He further says that he gave him (the witness) paper bundles and asked him to distribute them and accordingly he distributed. This was done both at Palasa and Mandasa on 21st April, 1967 at 11 A. M. and 6-30 P. M. respectively. Dandekar, Bharti Devi Ranga, Latchanna and two or three others from Guntur side were present at the Palasa meeting and at the Mandasa meeting the Orissa Minister Mr. Misra, Dandekar, Latchanna and Bharti Devi Ranga were present. Latchanna addressed only at one meeting at Palasa. He did not address the other meeting at Mandasa. The object of taking this witness to those places it is said was that he had to distribute the leaflets in the meetings. In fact, he is said to have been brought to the meetings only for that purpose. He admits that in all the villages there are Swatantra Party people and any body could do that work. There was thus no occasion for his being taken to these places. According to him he went to Mandasa at 9 A. M., then went to Palasa, and after the Palasa meeting was over, he came back to Mandasa. After Latchanna came to Mandasa, handbills for Mandasa meeting were distributed. I have already referred to the nature of the testimony of this witness. All that can be said is his testimony cannot inspire confidence.

There is one other witness, Sana Virabhadra Rao (P. W. 31), who says that he had gone to Palasa and there he found at 11 A. M. in a cinema hall that a meeting of the Swatantra Party was going on. He went to that meeting. Latchanna, Dandekar, Bharti Devi Ranga, the Orissa Minister Raj Vallabh Misra, K. Roshayya, Pasupuleti Koteswara Rao, and P. N. Chowdari, advocate were present there. Pamphlets were distributed by Latchanna and his workers. He read the pamphlets. The contents are the same in Ex. P-357. Latchanna had addressed the meeting besides Dandekar, etc. This witness seems to be connected with various associations. He is a businessman and a dealer in cloth, readymade dresses, cement, asbestos sheets, stainless steel and soda gas cylinders. He is a stamp vendor and also agent for nationalised text books for Andhra Pradesh. He is secretary of Sompeta Taluk Congress Committee, Secretary of the Vysya Sangham, member of the Panchayat Board, Sompeta Secretary for Town Defence Fund Committee, member of High School Committee, and Secretary of Zilla Parishad High School Committee. Notwithstanding these manifold duties he found some time to go to Palasa for canvassing in the bye election on 21st April, 1967 itself. He went by a bus to contact his relatives, friends and some other Vysyas for canvassing. It is there that he saw this meeting going on. According to him the meeting was advertised; he came to know 5 or 6 days prior to the 21st, and it took place in accordance with the original programme, Ex. P-763. There was no revised leaflet and no alteration in the programme. The Chief Minister of Orissa had come there and also the Minister of Orissa Sri Misra. Both were present there. According to him it is not true to say that Misra had come in the place of Singh Deo. The meeting took place at Palasa in a cinema hall. He does not remember the name of that cinema hall nor does he remember the name of the owner of the site. Ordinarily the meetings of the Swatantra party are not attended by the Congress workers. On that assumption questions were put to the witness that even though the Swatantra party did not invite Congress men, at the time when election offices were inaugurated would the Congress workers nevertheless go uninvited. He said that they would go but then he corrected himself and said that they do not go but merely gather information. It was suggested to him that at about that time Andhra Chief Minister and other Ministers were expected to visit that constituency. He admitted that the Chief Minister had to tour from 21st to 24th April. He did not go to receive him at Srikakulam. He did not accompany him. He later on says that by the time he went to Srikakulam, Chief Minister had left. He speaks of the programme of other ministers and elders. Reference to these was made on behalf of the respondent to show that it was improbable that the witness had come on that day to

Palasa when important persons were expected elsewhere. He also says that he was supplying information to the petitioner about various matters and was giving lists of vehicles used by the respondent. When asked whether it was done of his own accord, he first answered in the affirmative but then said that it was at the instance of the petitioner, as he had asked some ten days prior to the election. He is admittedly the Secretary of Vysya Sangham, of which Malla Satyanarayana is the President. Malla Satyanarayana is the same person who owns the petrol bunk at Kanchili near Sompeta railway station. His younger brother is Subbarao (P. W. 1) Vithal Rao, P. W. 23, is one of the clerks. He too is a Vysa. According to him, Malla Viswanadham was Secretary while was President of the District Congress Committee. Malla Satyanarayana and Subbarao are brothers and Malla Viswanadham is their cousin. Malla Satyanarayana and brothers are Congress supporters. All of them are closely connected with each other. His testimony judged as a whole is evidently highly intersted. Further what he deposed about the meeting at Palasa cannot carry conviction. His story that both the Chief Minister of Orissa Sri Singh Deo and the Minister Sri Misra had come and attended the meeting is not supported by any reliable evidence. That the meeting had taken place in the cinema hall has been rebutted by the witnesses examined by the respondent.

The other witness examined is P. W. 30, M. Narayanarao, an advocate, of Sompeta, who is the brother of Majji Tulasidas. He says he wanted to attend the meeting of Dandekar. He went to Harischandrapuram and then he went to Mandasa as there was also a meeting there of the Swatantra party. The meeting there took place at 6-30 or 7 P. M. Dandekar, Latchanna, Bharti Devi Ranga, Raj Vallabh Misra and a few others had come for that meeting. That meeting went on for 1½ hours. Latchanna introduced Dandekar and Misra. When Misra spoke in Oriya, Latchanna translated his speech into Telugu. Dandekar spoke in English and Koteswararao translated into Telugu. Dali Badhu, the President of Mandasa Panchayat, also addressed the meeting. Then leaflets were distributed on the instructions of Latchanna by the workers of the Swatantra party. He got one leaflet. He went back to Sompeta via Korlam. There again, a meeting took place at 9-30 or 10 P. M. Latchanna and Dandekar had attended that meeting. He says that his brother wanted his assistance and he assisted him thus. He says in one way it was personal assistance to himself. Further he thought that he will be known well and in the long run it will be beneficial for his profession. Thus in the interests of his profession he says he did so. It would appear that his brother Tulasidas had contested against Latchanna and was defeated. The witness feels that but for Latchanna his brother would have won both in the 1962 and 1967 elections. The effect is obvious though he says that he was not moved by the result. The petitioner's connection with his brother and himself are also obvious enough. His brother is a Director of the Mandasa Co-operative Marketing Society and he himself is the President. He is also the President of the Forest Co-operative Society. The petitioner is the President of Co-operative Societies and as such he is concerned with co-operative or credit societies in which the witness is interested.

As against this evidence there is the testimony of R. Ws. 20, 21, 24, 30 and 31. R. W. 20 has deposed about the meeting at Palasa and Mandasa. He says that after lunch at Tekkali he, Mrs. Ranga, Mr. Misra and Latchanna went to address a meeting at Palasa. They arrived there at 4-30 P. M. Prof. Ranga was not with them. The meeting went on till 6-30 to 7 P. M. Latchanna in his speech did not refer to the character of the Congress Candidate, either personal or public. Mr. Misra and Mrs. Ranga after they addressed the meeting left for another place. He and Latchanna remained late at Palasa itself. No leaflets were distributed there. Thus the statement of Narayana Dandekar negatives the fact that Mr. Latchanna and Mr. Dandekar had gone to address the meeting at Mandasa.

R. W. 21 deposes that he and Nitcherla Ramulu arranged a meeting at Palasa where Raj Vallabh Misra, Dandekar, Bharti Devi Ranga and Latchanna had addressed. It took place in the mango tope of Talasu people and not in the cinema hall as deposed to by Sana Virabhadrarao, P.W. 31. As it was getting late Latchanna requested Misra and Bharti Devi to go to the meeting at Mandasa and said that they would join them at Sompeta. According, they left for Mandasa. No pamphlets were distributed in the Palasa meeting. Latchanna did not speak of Mr. Rajagopala Rao. The witness is categorical that only one public meeting took place at Palasa and it was on 21st April, 1967.

Bendalam Ramamurti. R. W. 24, is another witness. He says that on 21st April, 1967 the Mandasa Swatantra Party arranged a meeting in which Bharti Devi and Misra spoke. He attended that meeting. It was held at 6 P. M.

Latchanna did not attend that meeting nor did Dandekar. None spoke ill of the petitioner. No pamphlets containing allegations against the petitioner were distributed. He himself had presided over that meeting. No such pamphlet as Ex. P-357 was distributed.

The deposition of R.W. 30 also supports in this behalf the testimony of Narayan Dandekar. To a like effect is the statement of Goutu Latchanna. R. W. 31.

Thus it is clear that the version of Sana Virabhadrarao that the meeting at Palasa took place in the cinema hall is negated by the testimony of R. W. 21. None of the witnesses have supported him that Singh Deo had come to the meeting. The testimony of the witnesses examined on behalf of the respondent must be accepted in preference to evidence brought on record by the petitioner. The allegation that Latchanna at Mandasa and Palasa meetings, had distributed pamphlets or had spoken ill of the petitioner is not proved nor is it proved that Ranga had participated in any of these meetings.

The only meeting that remains for consideration is the one at Srikakulam. That there was a meeting held on 24th April, 1967 at 9 P. M. is common ground. But the case of the respondent is that Latchanna did not attend that meeting as he was busy elsewhere and that he himself reached the meeting very late just at the rag end of the meeting and no leaflets as alleged were distributed and no exhortation of the kind alleged was made.

In order to prove the positive case of the petitioner the testimony of P.Ws. 25 and 29 has been brought on record. Both of them are not residents of Srikakulam. The former went there from Amadalavalasa to hear Jaggiah who, according to him, had to address a public meeting at 7-30 P. M., and the latter is said to have accompanied Jaggiah from Madras at his askance. Jaggiah is a film actor and an M. P. It is said that after that meeting was over, both of them in their own way chanced to attend the Swatantra Party meeting held at old bus stand that night. P. W. 25 went from Amadalavalasa not with a view to attend the Swatantra Party's meeting. In fact, he was not aware of the same. He went there as he was anxious to see and hear a cinema actor who was also a parliamentarian. He had left Amadalavalasa for Srikakulam at 7 P. M. with the determination that he would return that night as several buses run at an interval of every 15 minutes and, the last bus in the night leaves at 10-30 P. M. It was just half an hour's run. He says he attended the meeting addressed by Jaggiah. He came to the new bus stand. No bus was available at that very moment. He thought of going to a hotel meanwhile to take food. There are hotels near the new bus stand also which close by 10 P. M. He thought nevertheless of going to hotels near the old bus stand. It is not as though the hotels at the new bus stand were closed by then for it was only 9 or 9-15 P. M. by the time the meeting was over. It was possible for him to take meals and catch the bus long prior to the last bus for the night left Srikakulam. He went instead towards the hotels near the old bus stand. When he came out after meals, he found a meeting near the bus stand at a distance of a few yards from it. He did not come to know of the meeting before. The bus stand was at a distance of 200 yards from the hotel. It was about 10-30. The witness instead of trying to catch the last bus available at the stand, goes to the main road in search of a bus or lorry and happens to reach the place of meeting. According to him Latchanna was just addressing the public. Velanki Venkataramanarao, pleader, Srikakulam, was presiding. Latchanna spoke for about half an hour. He spoke the matters contained in Ex. P-357. The witness gives the gist of it and says that the leaflets were on the dais. Latchanna after telling the contents handed over the leaflets to Chelapati Rao (R. W. 1) and he in turn gave them to the workers, who distributed the same. The witness says that he received one such leaflet. He at the same time says that he did not hear the contents mentioned in the leaflet. He had not read the contents also himself. He did not mention about this to the petitioner even. He did not stay there after Latchanna's speech to hear the other leaders. It is not as though it was the first time that he heard Latchanna. There was nothing to excite his curiosity at a time when he was keen to go home. He says that Ranga was present then. This in short is the evidence of the witness. Evidently it is not quite in keeping with the ordinary course of conduct of a man of ordinary prudence. There was no reason for him to go to the hotel at the old bus stand when he could have meals in any of the hotels at the new bus stand. He could reach home within half an hour if he waited for a while to catch the bus. He had in fact set out from his place with the determination to return that night. It may be noted further that had he taken the same route by which he reached the hotel, he would not have chanced to see the meeting at all. At a time when he must be anxious to catch the last bus, he leisurely takes a different route. His whole evidence sounds rather unusual. I have already dealt with the testimony of

this witness on another aspect of the case. His evidence owing to its peculiar traits cannot inspire confidence.

The testimony of the other witness Babu Rao P. W. 29 is subject to like criticism. He came with Jaggiah to keep his company. After his meeting was over at about 9-30, instead of going with Jaggiah, he goes to the Swatantra Party meeting at 9-45 P. M. and hears Ranga and Latchanna and sees the pamphlet being distributed. He read the contents of the pamphlet. What he heard from Ranga was a heap of abuses on Jaggiah and what he heard from Latchanna about the petitioner was that was contained in Ex. P. 357. Jaggiah was his friend and the petitioner was the person who took both of them to the guest house of the Co-operative Central Bank and had arranged for their convenient stay. It was alleged on behalf of the respondent that this witness is obliged to the petitioner and is the same person who had passed to the petitioner a receipt which is included as a voucher in the return of election expenses submitted by the petitioner. The receipt of course bears his name. Whether there was any other person at Kakinada of his name he does not know. His testimony about his firm, his income, income-tax and other matters raises serious misgivings. Much weight cannot be attached to his testimony.

As against this, there are depositions of R. Ws. 1, 2, 3, 6, 11 and 22 in addition to R. Ws. 19 and 31, Mr. Ranga and Mr. Latchanna. R. W. 1 says that on 24th April, 1967 in the morning Latchanna, Suvarl Sanyasi Apparao, Bendi Appala Suri, Garimella Kameswara Rao and himself had all gone to Kothakota and all of them returned to Kondavalasa at about 12-30 or 1 P. M. Thereafter, they went to Purushothapuram, Salanthri, Laxminarasapeta, Ravichandri, Kommuvalasa etc. In the evening from 4 to 6 P. M., they had a meeting at Laxminarasapeta. Then they had another meeting at Kommuvalasa till 10 P. M. Kommuvalasa is at a distance of 25 miles from Srikakulam. After the meeting, they all returned to Saribujilli and from there, they went to Burja on Palakonda road. It was then about 11-30 or 12 midnight. Latchanna did not go to Srikakulam to attend the meeting on that night of 24th April, 1967 as published in the pamphlet Ex. R-53. In cross-examination, at one stage, R. W. 1 said that the meeting of Swatantra party at Srikakulam on 24th April, 1967 was attended by Ranga, Latchanna and the Health Minister of Orissa Mr. Ramaseshayya and himself. Much stress has been laid on this part of the statement as supporting the case of the petitioner. But evidently the witness, who was stated in detail that day's programme of Latchanna, whom he had accompanied, had been under some mis-apprehension when he stated so in his lengthy cross-examination. Suvarl Sanyasi Apparao (R. W. 2) has stated that in the fourth week or on April 24th, he along with others toured Kothakota, Kondavalasa, Laxminarasapeta, Kommuvalasa and arrived at Burja by night. R. W. 3 Bendi Appala Suri also deposed that on 24th April 1967, three days prior to the polling, Latchanna, Suvarl Sanyasi Apparao and Chalapathi Rao Patnaik came to his village Kanugolavalasa. Latchanna requested him to tour along with him and others on that day. So he accompanied them. They toured that day and covered Kothakota, Kondavalasa, Purushothapuram, Lakshminarasapeta, Kommuvalasa, Ravichandri Villages. Finally they went to Burja village via Saribujilli at about 10 O'clock. Then they met the elders in connection with the election, had their meals at the house of Allu Suryanarayana by 11 P. M. in the night and slept in the verandah in the Burja High School. Himself, Latchanna, Suvarl Sanyasi Apparao, Dola Jagannadha Rao, Chalapathirao Patnaik and Garimella Koteswara Rao slept there till dawn on the next day. Latchanna went to Sompeta on the next day morning. Similar is the statement of R. W. 11, R. W. 11 has stated that the last place which they visited on 24th was Burja. They dined there in Allu Suryanarayana's house and slept at High School verandah in that village. He stated that it was not true that Latchanna spoke in the meeting held on 24th April, 1967 at 10-30 P. M. at Srikakulam. R. W. 6 Dola Jagannadha Rao corroborates the testimony of R. W. 2. To the same effect is the statement of Latchanna. He as R. W. 31 deposed that he stayed at Burja on the night of 24th April, 1967 having toured that day Saribujilli, Salanthri, Kothapeta, Purushothapuram and four or five other villages near Purushothapuram. He and others dined at Allu Suryanarayana's house at Burja. Chalapathi Rao, Garimella Kameswara Rao, Bendi Appala Suri, Dola Jagannadha Rao and also Suvarl Sanyasi Apparao were with him. On that day, he did not at all tour Srikakulam nor did he address any meeting at Srikakulam. He denied the allegation that he caused distribution of Ex. P-357 pamphlet or dilated on the contents thereof.

Thus it would appear from the above depositions that Latchanna was not and could not be at Srikakulam on the night of 24th April, 1967 at the time of the public meeting at Srikakulam held by the Swatantra Party.

Then there is the positive evidence of R. W. 22 and R. W. 19. R. W. 22 Veerachari of Guntur says that he was at Srikakulam for canvassing on behalf of Ranga. He, Sunkara Satyanarayana and Rao Gopala Rao held a public meeting at Srikakulam on the 24th of April, 1967. The meeting took place at about 7-30 p. m. In pursuance of the pamphlets (Ex. R. 53) that were distributed before. In that pamphlet, Nutakki Ramaseshayya's name was mentioned as one of the speakers. He was a Minister in the Orissa Cabinet. He was unable to attend the meeting due to ill-health because it was announced so at the time of the meeting, Ranga came to the meeting at its concluding stage and Latchanna did not attend the meeting at all. Pamphlets like Ex. P. 357 were not distributed. Nobody spoke about the public or personal character of the petitioner. In his cross-examination, he stated that he does not know where Ranga had gone and why he was late for the meeting. He also stated that he does not know where Latchanna was present on 24th April, 1967. N. G. Ranga, the respondent, as R.W. 19 also stated that on 24th April, 1967, he reached the meeting place at Srikakulam very late. By the time he reached, he saw Veerachari, Sunkara Satyanarayana and Gopala Rao. His was the last speech and it was a very short speech. It was in the shape of an appeal. The personal or public conduct of the petitioner was never brought into question in his speech. There was no distribution of pamphlets touching the character of the petitioner. It would appear from his statement also that Latchanna was not there. There is no reason to disbelieve the positive statements of the witnesses Veerachari (R. W. 22) and N. G. Ranga (R. W. 19). The absence of Latchanna from the meeting is accounted for by the other witnesses examined. Be that what it may, the allegation that Ranga and Latchanna exhorted the audience at the Srikakulam meeting and Latchanna caused distribution of the pamphlets, is not established by the material on record. If, as the petitioner's witnesses deposed, the pamphlets were distributed and they got one each, they could have as well produced the same. C. V. Babu Rao (P. W. 29) would have handed over the same to Rajagopala Rao who had made arrangements for his stay in the guest house. The petitioner thus has failed to satisfactorily establish that the copies of Ex. P. 357 were distributed in the meetings alleged to have been held on 20th, 21st and 24th of April, 1967 at Tekkali, Palasa, Mandasa and Srikakulam. It has also not been established that Ranga and Latchanna spoke about the contents of Ex. P. 357 and exhorted the people not to give vote to the petitioner, who had misappropriated the public money. The presence of Ranga at any of the above meetings except at Srikakulam is not proved at all. This fact finds support to certain extent from the testimony of some of the witnesses of the petitioner himself. That Latchanna did not take part in the Mandasa meeting also is clear from the evidence on record. So also, his absence at Srikakulam meeting. There is positive evidence to show that Latchanna did not distribute the pamphlet Ex. P. 357 in any of the meetings he attended, nor did Ranga do so. The petitioner's case that the meeting at Tekkali took place on 20th April, 1967, as already noticed, cannot be true as, apart from Ex. R. 28, it would be evident from Ex. P. 819 relied on by the petitioner himself that there was a meeting on that day at Srikakulam wherein Dandekar, Raja Vallabh Misra and Latchanna had taken part. The report of the speeches as in Ex. P. 319, a newspaper, has been put to Dandekar and Raja Vallabh Misra. Reliance thereon is of no avail as it is not the case in the petition that at the meeting at Srikakulam on 20th April, 1967, Latchanna distributed the pamphlets or had passed objectionable remarks in relation to the petitioner. Nor is it the case of the petitioner in the election petition that in that meeting, Dandekar or Raja Vallabh Misra criticised the conduct or personal character of the petitioner. It is however clear from Ex. P. 819 itself that there was a meeting at Srikakulam on 20th April, 1967. Apart from that Ex. P. 793(j), a voucher for erecting pendal for meeting held at Srikakulam on 20th April, 1967 lends support to the fact that a meeting was arranged that day. If it be accepted that there was a Swatantra Party meeting held on 20th April, 1967 in which the above leaders took part, and there is no reason to believe otherwise in view of this large volume of oral and documentary evidence, the holding of a meeting at Tekkali on 20th April, 1967 at about the same time must be held to be untrue and the witness who has deposed to the same must be deemed to have drawn on imagination and spoken about something which did not occur at all. P. W. 28's lone testimony that he heard the speeches even otherwise is rendered improbable by the circumstantial evidence. The case of the petitioner in relation to distribution of pamphlets in other meetings and exhortations therein by Mr. Ranga and Latchanna is effectively rebutted

by the respondent's witnesses. Thus when it is clear that the factum of the publication of Ex. P. 357 itself as distinct from its printing is not proved as alleged, no further question under Sec. 123(4) of the Representation of the People Act can arise. However, in view of the evidence adduced in regard to other competent elements of the corrupt practice under Sec. 123(4), I propose to deal with them as well.

It is urged on behalf of the petitioner that the impugned portions of Ex. P. 357 are statements of fact which are false and defamatory and have been brought maliciously, with the avowed object of bringing the petitioner down in the estimation of the public and this has adversely affected the prospects of success of the petitioner in the election. The impugned portions relied on have been set out in the petition itself though, as I have already stated, evidence has been adduced in relation to other portions of Ex. P. 357 as well, which, in the absence of such a ground in the pleading, cannot come up for consideration. Of the three impugned statements contained in para 3(a), (b) and (c) of the petition, the one in para 3(b) which is a statement of fact relating to punishment for contempt cannot arise for consideration as it is admitted in evidence that this statement is not untrue or false. Of the two other statements admittedly the statement contained in para 3(a) is a statement of fact. Para 3(a) is not of course the exact paraphrase of the relevant passage in Ex. P. 357. Para 3(a) refers to the allegation that the petitioner misappropriated large sums to the tune of about 60 lakhs of rupees belonging to the Co-operative Sugar Factory and Zilla Co-operative Central Bank for his own ends. What appears from para 1 of Ex. P. 357 is, that a question was put to the Minister as to what action has been taken on the memorandum submitted in June, 1966 to the Honourable Chief Minister and Minister for Co-operation, by Sri Lukalapu Lakshmana Das, Andhra Pradesh Congress Secretary, Sri Gorle Sriramulu Naidu, Chairman of the Zilla Parishad and Andhavarapu Tavataiah, Ex. M.L.A., Sri Challa Narasimhulu Naidu and other elders, 18 in all, stating that Sri Boddepalli Rajagopal Rao, now treating as his bye-election to the parliamentary constituency of Srikakulam, by treating as his own institutions, the Co-operative Sugar Factory, District Co-operative Central Bank and other Co-operative institutions run under his aegis or control had misused the Government funds and the public funds to the tune of about 60 lakhs of rupees as freely as water. Thus this para asks the Government to inform the public, as to what action it has taken on the memorandum submitted by the 18 elders in relation to the alleged acts of petitioner. The said para purports to set out the very allegations contained in the said memorandum in relation to which the public want to know the action taken by the Government. It is manifest that the statement pertaining to the petitioner contained in the above para is based on the memorandum submitted by the said elders. In other words, the allegations contained in para 1 of the memorandum against the petitioner is not the allegation of the author himself, but what is said to be contained in the memorandum. It follows, therefore, that the allegation contained in para 1 in relation to the petitioner would be a false statement of fact if it does not represent true or faithful rendering of the facts stated in the memorandum or is unwarranted by the language of that memorandum. That is one view. There is also another view possible. If para (1) of the questionnaire in its context, on the questionnaire being judged as a whole, should by itself be treated in substance and effect as an allegation against the petitioner by the author of the pamphlet itself, the question for consideration would be whether such an allegation is false. I, therefore, propose to consider whether the statement contained in Para 1 is a false statement in any or either sense.

R. W. 6, the author of the pamphlet, Ex. P. 357, deposes that he saw a statement given by the Pradesh Congress Committee Secretary, Lukalapu Lakshman Das in Visalandhra paper of the year 1966 between 18th and 20th June and that the 1st paragraph of Ex. P. 357 was based thereon. It is not as though the moment he saw the statement in the paper he printed the pamphlet. He saw the statement being issued in Mahodaya weekly published from Srikakulam District, which is Ex. R. 37 dated 23rd October, 1966. The heading thereof is "Shri B. Rajagopala Rao Ajamayeshi lo nunna 10 sahakara samsthala lo durvimiyyogam" (misuse of several lakhs of rupees in the 10 Co-operative institutions which are under Rajagopala Rao's control). Not merely this, sometime thereafter in the first week of April, 1967, he met Lukalapu Lakshman Das and asked him whether it was true that he had given memorandum to the Chief Minister against the petitioner and whether the contents of the Memorandum were true. Lukalapu Lakshman Das told him that all the news was true and that they, in fact, submitted the Memorandum to the Chief Minister that some amount to the tune of

sixty lakhs of rupees had been misused or misappropriated in the Sugar Factory. The witness thereupon went to the sugar factory at Amudalavalasa to enquire into and ascertain the extent of truth therein. As a share holder in that concern owning about sixty shares he was interested to know about it. He asked the Manager to show him the audit report (Ex. R. 63) for the year 1964-65. He found in fact that there was a loss of about 55 lakhs of rupees. He further found that loans to the extent of 5 or 6 lakhs were overdue. Thereupon, he believed that there was truth in the statement in the memorandum. Then he prepared and got the questionnaire printed as he wanted to know what action has been taken by the Government regarding the memorandum. The witness was cross-examined at length in this behalf. He was also asked whether he read the audit report and took notes of the same. He said that he only noted the amount of the loss mentioned therein and also the loan amount due. He also referred in his statement to the fact that he did not see the memorandum himself. He however, saw a copy of the same at Simma Jagannadham's house subsequently. It was 3 or 4 days subsequent to his talk with Lakshman Das. Lakshman Das had given the details also when he asked him about the amounts and the way in which they were misused. It was put to him that most of those who had signed the memorandum against Rajagopala Rao were his supporters in the bye-election and at the time of bye-election they had even issued a pamphlet, Ex. R. 62, about Ranga to which a reply, Ex. P. 804, was issued by Simma Jagannadham, Dikkala Krishnamurti, Garimella Kameswara Rao, and himself. The witness admitted the same. Thus it would appear from the testimony of this witness that not only on reading the statement appearing in Visalandhra and Mahodaya (Ex. R. 37) but also after ascertaining from Lakshmanadas and after seeing the copy of memorandum with Simma Jagannadham also, and after being convinced of the truth by looking into the audit report, Ex. R. 63, that showed a loss of about Rs. 55,00,000/- and loans overdue by about Rs. 5,00,000/- he got the pamphlet printed. It is alleged on behalf of the petitioner that Ex. R. 63 could not be available to the witness as the auditor had signed only on 21st April, 1967 and Registrar approved of it on 7th July, 1967. It would appear that the audit report is dated 12th January, 1967. The Balance Sheet was of course dated 21st April, 1967. The witness says that he did not see the Balance Sheet then. It is a separate paper. Why it was shown to him before it was placed before the Board of Directors is not a matter to be explained by the witness. It may be left to the discretion of the officer concerned. R. W. 2. Suvani Sanyasi Apparao, vouches for the memorandum that was sent by Lokalapu Lakshman Das, Andhavarapu Thavitalah, Challa Narasimhulu Naidu, Simma Jagannadham, etc. He himself was one of the signatories. He says that he was present at the time when the memorandum was signed by various persons. He further says that this memorandum was drafted at New M.L.A. Quarters and it was based on the audit reports and personal knowledge of the persons concerned about the working of the various institutions. Of course the memorandum does not contain the signatures of the persons named. It is argued that Exs. R. 38 and R. 61 the memoranda do not specify the amount of Rs. 60,00,000/- as having been misused. Whatever the amount shown in relation to various institutions, the total thereof will not come to so many lakhs of rupees. True it is that a specified total sum has not been mentioned in the memorandum but the irregularities referred to therein involve amounts running to several lakhs. Exs. R. 38 and R. 61 further show that they were in fact signed by several persons including two of the persons named. Of course, some of the same persons at the time of bye-election had issued a pamphlet (Ex. R. 62) in relation to Sri N. G. Ranga which evoked a statement in the shape of Ex. P. 804. Both the pamphlets are not dated. The postal date which Ex. R. 62 bears seems to be 8th April, 1967. Be that what it may, by their alleged statement it does not mean that no memorandum was originally sent or the memorandum originally sent stood rebutted and Dola Jagannadha Rao thereby was put on notice that the original memorandum was baseless. In fact, there was a star question in the Legislative Assembly both in the year 1966 and 1967 (Ex. R. 46 and R. 47) to which Latchanna R. W. 31 has referred. Besides, the memorandum seems to have been referred to investigating authorities for due investigation (see Ex. R. 40). At any rate, if Dola Jagannadha Rao, on the basis of the memorandum submitted by some of the leaders of the Congress party themselves and also in view of the statements to the same effect in various papers which he read and further after ascertaining from Lokalapu Lakshman Das had issued this pamphlet (Ex. P. 357), which does not distort the statements in the memorandum as gathered from various sources and after looking into the audit report, it cannot be said that the statement that he made was not bona fide or was baseless or false to his knowledge or was unwarranted by the memorandum itself to which reference was made. The petitioner, no doubt, on oath has sought to show that the allegations of misappropriation and misuse are baseless and the allegations of irregularities in relation to the various institutions shown

in the memorandum are wholly unfounded. The petitioner's case seems to be that the memorandum was engineered by some of the interested persons to exploit the situation arising from schism and groupism then appearing in the Congress Party. These persons were of Ayodhya group while the petitioner was in the Sayodhya group. His case is that the same persons later at the time of the bye-election had spoken highly of him and had issued Ex. R. 62 and that thus must establish that the statements in the memorandum were baseless. He has spoken in his testimony about the working and history of each of the institutions referred to in the memorandum and also the extent of concern that he has with them. He has spoken of the sugar factory of Amadalavalasa and the nature of his duties as the President. It is his case that loss shown in the audit report mostly represents the depreciation of the machinery. He further said that the bad debts mostly were of the days when he was not the President. I do not wish to deal with this at length for, as already observed, the scope of the inquiry is very much limited. We are not concerned with the question whether the statements made in the memorandum were false or unfounded. The question is whether para 1 of Ex. P. 357 contains a statement which is false. The said para is based on the contents of memorandum (as could be gathered from the papers and Lakshman Das) which was submitted to the Chief Minister and Minister for Co-operation by the persons named therein. The fact that it was so presented is not untrue. It is not also untrue that there was an allegation therein of irregularities having been committed and amounts having been misused which ran to several lakhs of rupees. In fact Mahodaya issue (R. 37) dated 23rd October, 1966 speaks of misuse of lakhs of rupees. In these circumstances, para 1 of Ex. P. 357, which refers to the submission of the memorandum to the Chief Minister and Minister for Co-operation, and the substance of the memorandum, cannot be said to contain a statement which is false. Then again having regard to the provisions of Sec. 123(4), in order to constitute a corrupt practice, it is not only necessary that the impugned statement or fact is false but the candidate either believed that statement to be false or did not believe it to be true, and the impugned statement should relate to the personal character or conduct of the petitioner. It is primarily the belief of the candidate that matters. It has been so held in *Kumara Nand v. Brijmohan Lal Sharma* (A.I.R. 1967 S.C. 808). Even if it be assumed that the phrase, that he believed it to be false and that he did not believe it to be true, used in Sec. 123(4) applies to an agent as well in view of the above discussion, it cannot be held that Dola Jagannadha Rao believed the statement contained in Para 1 of Ex. P. 357 was false or that it was not true.

Para 3(b) is based on "Andhra Pradesh" daily and it need not be considered as admittedly the statement contained therein is not false.

Then I advert to para 3(c) of the petition which refers to the statement, "Whether the congress party could not get a better candidate with record of selfless public service." This according to Dola Jagannadha Rao was based on his opinion on the material that he saw against the petitioner in the papers including Andhra Prabha. Dola Jagannadha Rao was cross-examined at length in this behalf. His statement is to the effect that all that he remarked was whether a person with better record of selfless public service could not be had, as a candidate. He did not mean thereby that the petitioner is of bad character. His remarks do not imply such a meaning. He had no intention of casting aspersions on his personal character. Nor did he cast any such aspersion. His statement was in essence an expression of opinion and was not a statement of fact that the petitioner is a man of bad character or unfit or unsuited to be a candidate. Only choice of a better candidate was requested for. One may be called a better candidate than the other without necessarily meaning thereby that the latter is unfit. The view expressed by him is based on the printed news, memorandum, representation of Lachanna, star question in the Assembly (Ex. R. 46) and the audit report (Ex. R. 63), besides the news of his punishment for contempt of Court. It is further alleged he could not take shelter under the star question by Sri Jagannadham. Reliance is placed on *Harbhajan Singh Vs. State of Punjab* (A.I.R. 1961 Punjab 215). It is further urged that unless he was fully convinced he could not legitimately make such a statement. This aspect also, I have dealt with above. Whether a particular statement is a statement of fact or opinion may be difficult to ascertain in certain cases. That must turn on the particular circumstances of the case. Of course in judging the same regard should be had to the tenor and purport of the whole passage or article. In my opinion the statement is not obviously a statement of fact but are opinion about the need of a better candidate being set up. The impugned statement in para 3(c) does not cover the further statement which follows the said statement in Ex. P. 357

and which refers to death of virtuous people in the Congress model of 1967. So I need not comment on the same.

From the above discussion it is clear that it was Dola Jagannadha Rao himself who got printed Ex. P. 357 of his own accord and neither the respondent nor his election agent was in any way concerned with it. The respondent and the election agent were in no way connected with its publication. When several thousands of copies of the pamphlet had been printed they must of course be for purposes of distribution. Dola Jagannadha Rao could have personally distributed them or caused their distribution through others. But there is no positive evidence that these pamphlets were distributed amongst the public either by Dola Jagannadha Rao himself or by the election agent, as alleged, or to the knowledge of either the respondent or his election agent. It is not also proved that the contents of Ex. P. 357, to the extent they are relied on in the petition itself, fall within the mischief of Section 123(4). Thus the statement in para 3(a), though of fact, is not untrue in that the memorandum purporting to bring allegations of the kind, was in fact submitted to the Chief Minister and Minister for Cooperation. Questions in relation thereto were also raised in the legislature. It is not disputed that that memorandum was filed though the allegations do not specify the exact extent of misappropriation of moneys as in Para 1 of Ex. P. 357, namely, sixty lakhs of rupees.

With regard to the view expressed as regards the candidate also I do not think that the said statement makes out a corrupt practice. So far as Para 3(b) of the petition is concerned, it is not disputed now that the facts therein are correct. The punishment for Contempt of Court must as well furnish the material for opinion as to the expediency of setting up such a person as a candidate. The other matters referred to in Ex. P. 357 are not covered by the allegations in the petition, and therefore cannot form subject matter of inquiry. It is obvious of the 5 points that Ex. P. 357 raises only 3 have been included in the petition. It may also be noted Sec. 123(4) requires as one of the constituent elements of corrupt practice that the candidate should believe the statement of fact bearing on the personal character of the candidate to be false and should not believe it to be true. I have already discussed this aspect. It is difficult to hold that let alone the candidate even D. Jagannadha Rao cannot be deemed to have believed the statement that he referred to in para 1 of Ex. 357 to be false or not true. The further requirement of corrupt practice is that the statement should be calculated to prejudice the prospects of the petitioner. It was argued that the Memorandum filed by prominent Congress workers had gained wide publicity through newspapers as well. Questions were raised even in State Legislature. In these circumstances Ex. P. 357 could not have prejudiced the chances of the petitioner.

It is urged on behalf of the Respondent that since the election petition in the relevant paras does not contain any averment that the candidate or his agent believed it to be false and did not believe it to be true, the allegations in the petition itself should be held—for want of this element—to be wholly insufficient to make out a corrupt practice, and no issue can be raised.

The general principle is well settled that the person who challenges the validity of an election must set out all the material facts which go to constitute that corrupt practice, in this election petition presented in accordance with law. Section 83, which refers to the contents of such a petition, enjoins that the petition shall contain a concise statement of the material facts on which the petitioner relies. In case there is an allegation of corrupt practice, the petition should set forth full particulars of that corrupt practice, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of commission of each corrupt practice.

It is clear, therefore, that unless the material facts are stated in the election petition, which make out a corrupt practice, there will be no occasion for the Court to raise an issue in relation to such corrupt practice. Nor can any evidence be permitted to be adduced or looked into in support of material facts which form the component elements of the corrupt practice and have not been stated in the petition. Any amount of evidence would not take the place of the requisite context in the petition. The governing principle is that the facts alleged alone are to be proved, and the facts for which there is no foundation in the pleadings cannot be permitted to be proved and any amount of evidence nevertheless brought on record will not be looked into. That being the basic principle, it must be seen whether all the component elements of corrupt practice or the material facts relating thereto have been set out in the petition so that an issue of corrupt practice may be raised.

It would appear from Paras 3 and 4 of the petition that the petitioner had set out the several facts bearing on the various constituent elements of corrupt practice relied on under Sec. 123(4) except that he did not in terms say that the respondent or the author of the leaflet believed the impugned statements therein to be false and did not believe them to be true. Of course he stated that these statements, wholly baseless and malicious, were made with the object of tarnishing the image of the petitioner and lowering him in the estimation of the voters.

The respondent in his additional written statement did refer to the fact that the petitioner did not allege that the candidate believed the statement to be false and did not believe it to be true and that being a component element missing in the averments in the petition no corrupt practice can be made out by the allegations in the petition. It would appear that notwithstanding such an objection taken in written statement the petitioner did not think that his averments were deficient to any extent in this behalf and therefore did not apply for any amendment. In this situation it is alleged that since the corrupt practice could not be complete unless there is an allegation with regard to that particular element, it should be held that no corrupt practice has been made out by the pleadings under Sec. 123(4) and no such corrupt practice can be inquired into.

Reliance has been placed in this behalf on *Devaiah v. Nagappa* (A.I.R. 1965 Mysore 102), *M. A. Muthiah Chettiar v. S. A. Ganesan* (A.I.R. 1958 Mad. 553), *Ram Abhilakh Tewari v. Election Tribunal, Gonda* (A.I.R. 1958 All. 663=14 E.L.R. 375) and also *Savitri Devi v. Prabhavati Misra* (15 E.L.R. 358).

In the Mysore case the petitioner while setting out in the election petition all the material facts in relation to a corrupt practice under Sec. 123(4), failed to mention that the candidate or the author of the publication believed the statements to be false or did not believe them to be true. He, however, had stated that the pamphlets contained false and defamatory statements, calculated to bring him down in the eye of the voters. He also stated that the candidate had committed an act falling under Sec. 123(4) of the Representation of the People Act and the said Act was calculated to prejudice the prospects of election of the respondent. Subsequently that defect was cured by way of an amendment introducing a new paragraph which in terms referred to the fact that the respondent and other persons believed the statement to be false or did not believe them to be true. The Mysore High Court on appeal held that the amendment of the averments in the petition allowed after the time had run against the petitioner was bad, that the averments in the petition as originally stood, in law did not make out a corrupt practice and that one of the essential ingredients of corrupt practice was absent. This decision fully supports the contention of the respondent. But the contention of the petitioner is that however clumsily or inartistically the petition might have been drafted, it is the substance and not the form that matters, and that the assertion that the respondent did not believe it to be false and did not believe it to be true could be spelled out by the general language used, as it is implicit in the very allegation that a corrupt practice under Sec. 123(4) has been committed. It is to be seen whether this contention is acceptable. By the mere fact that the statement is false it cannot be readily assumed that the maker of it believe it to be false or not true. A statement may be false but the maker of the same may not believe it as false or untrue. Notwithstanding the falsity of the statement Sec. 123(4) takes such cases out of its purview. It is necessary for the petitioner, therefore, to allege that he believed it to be false and did not believe it to be true. The necessity and importance of the pleadings being full and complete has been stressed upon by the Supreme Court in *Sheopal Singh v. Ram Pratap* (A.I.R. 1965 S.C. 677 at 681). If an important element which is essential to be made out and which is also a matter of evidence has not been set out in the pleadings, it cannot be said that element was pleaded so as to make out an offence. In this premises it is rather difficult to say that it was only a matter of form and not a matter of substance, and the absence of the requisite words should be overlooked. Be that what it may, as already noticed, the corrupt practice alleged under Sec. 123(4) even on the material on record, cannot be held to be proved against the respondent so as to warrant a declaration that the allegation is void.

Under issue No. 7, it should therefore be held that though Dola Jagannadha Rao caused the printing of a leaflet, he did not do so at the instance or expense of the election agent nor did the election agent distribute the same in any meetings as alleged, nor did the election agent or the respondent in any of the meetings alleged exhorted the public not to vote for a person who had misappropriated public moneys. The statement in the leaflet to the extent relied on in paras 3(a), (b) and (c) of the petition is not proved to be false. Issue No. 7 is decided accordingly.

Issue No. 8(a) also must be held against the petitioner. Sana Virabhadra Rao and the petitioner had said that on account of this publication the prospects of the petitioner were adversely affected in the election. That cannot be readily accepted as corrupt because there were several other pamphlets to the like effect printed in various papers and various places during the period of the election and their effect can be no less important.

Under Issue 8(b) it must be held that no corrupt practice under Sec. 123(4) is made out on the allegations in the petition which are incomplete and no such corrupt practice in fact has been proved to have been committed.

Issue No. 9: I have already stated that the election petition is divided into four parts. The last part which I now deal with contains allegations of a corrupt practice falling under Sec. 123(6) of the Representation of the People Act. In order to understand what it consists in I may notice here the relevant provisions of the Representation of the People Act and the rules framed in that behalf. Section 123(6) reads thus:

"123. Corrupt practices: The following shall be deemed to be corrupt practices for the purposes of this Act;

- (6) The incurring or authorizing of expenditure in contravention of Sec. 77."

Section 77 which deals with the account of election expenses and maximum thereof is in the following terms:

- "(1) Every candidate at an election shall either by himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent between the date of publication of the notification calling the election and the date of declaration of the result thereof, both dates inclusive.
- (2) The account shall contain such particulars as may be prescribed.
- (3) The total of the said expenditure shall not exceed such amount as may be prescribed."

Thus according to this provision the candidate has a duty to keep account either by himself or by his election agent, of the expenses incurred or authorized in connection with the election between the date of notification and the date of declaration of the result and this account should contain all the particulars as prescribed by the rules. Part 8 of the Conduct of Elections Rules, 1961, deals with election expenses. Rule 86 enjoins that the account of election expenses to be kept by a candidate or his election agent under Section 77 shall contain the particulars as detailed in sub-clauses (a) to (h) in respect of each item of expenditure from day to day. It further provides that a voucher shall be obtained for every item of expenditure except for postage travel by rail and the like for which it is not practicable to obtain a voucher and all these vouchers shall be lodged along with the account of election expenses. They shall be arranged according to the date of payment. They shall be serially numbered by the candidate or his election agent and these serial numbers shall be entered in the accounts under item (f) of Sub-Rule (1). Section 78 of the Representation of the People Act provides that every contesting candidate at an election, within thirty days from the date of election of the returned candidate, shall lodge with the District Election Officer an account of his election expenses which shall be a true copy of the account kept by him or by his election agent under Section 77.

It is thus plain that not only the account has to be kept in accordance with the rules referred to above but also a true copy of this account kept either by the candidate or his election agent has to be submitted within the prescribed period to the District Election Officer. Rule 89 enjoins that the District Election Officer, after the expiration of the time specified in Section 78 for the lodging of the accounts of election expenses in the election, shall report to the Election Commission (a) the name of each contesting candidate (b) whether such candidate has lodged his account of election expenses and if so, the date on which such account has been lodged; and (c) Whether in his opinion such account has been lodged within the time and in the manner required by the Act and the rules. Sub Rule (2) provides that if the District Election Officer is of opinion that the account of election expenses of any candidate has not been

lodged in the manner required by the Act and rules, he shall with every such report forward to the Election Commission the account of election expenses of that candidate and the vouchers lodged along with it. Further he shall, immediately, after the submission of the report as to the lodging of the account publish a copy thereof by affixing the same to the notice board. The Election Commission as provided by sub-rule 4 shall, on receipt of the report, consider the same and decide whether any contesting candidate has failed to lodge the account of election expenses within the time and in the manner required by the Act and the Rules. Under sub-Rule 5 if the Election Commission decides that a contesting candidate has failed to lodge his account of election expenses within the time and in the manner required by the Act and the Rules, it shall by notice in writing call upon the candidate to show cause why he should not be disqualified under Section 10-A for the failure.

Sub Rule (6) says that if the contesting candidate has thus been called upon to show cause he may within twenty days of the receipt of such notice submit in respect of the matter a representation in writing to the Election Commission and shall at the same time send to the District Election Officer a copy of his representation together with a complete account of his election expenses if he had not already furnished such an account. Then the District Election Officer as per Sub-Rule 7, shall, within five days of the receipt hereof, forward to the Election Commission the copy of the representation and the account, if any, with such comments as he wishes to make thereon.

Finally, as provided under sub-rule 8, the Election Commission, after considering the representation submitted by the candidate and the comments made by the District Election Officer and after such inquiry as it thinks fit, if it is satisfied that the candidate has no good reason or justification for the failure to lodge his account shall declare him to be disqualified under Section 10-A for a period of three years from the date of the order and cause the order to be published in the official gazette. Section 10-A provides that if the Election Commission is satisfied that a person (a) has failed to lodge an account of election expenses within the time and in the manner required by or under the Act, and (b) has no good reason or justification for the failure, the Election Commission shall by order published in the official gazette declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order. Section 11 gives power to the Election Commission to remove this disqualification or reduce the period of any such disqualification.

Thus a detailed procedure is laid down in case any irregularities are found in complying with the provisions of Section 77(1) and (2). The non-compliance of these provisions entails the penalty of disqualification under Section 10 A) in case there has been no good reason or justification for the failure to comply with the provisions. The authority on whose satisfaction the penalty will be imposed is the Election Commission and it is vested with the power of not only disqualifying but also on good grounds being shown later of removing the disqualification or modifying the same.

In this case the return of election expenses was submitted by both the candidates in time. On behalf of the respondent it was sent on 20th May 1967 and was received in the District Collector's Office on 23rd May 1967. The seals of the Collector's Office thereon amply bear out the date on which it was received. The return was signed by the Election agent himself and the forwarding letter also bears his signature. It is in accordance with the form prescribed. It has column (a) to (h) as prescribed in rule 86. In column, (f) "vouchers whether enclosed or not" were specifically mentioned in relation to each item. Serial numbers however were not given to the vouchers that were enclosed, nor does the covering letter show how many vouchers in all were enclosed. The petitioner also submitted his return on 26th May 1967. After they were submitted they were checked by the Collector's Office and a report dated 6th June, 1967 Ex. P. 794(1) with a forwarding letter Ex. P. 794 was sent to the Election Commission under Rule 89 (1). The contents of the forwarding letter were to the following effect.

"The two contested candidates have lodged their accounts of Election Expenses incurred by them within the time. But Sri G. Ranga the elected candidate has not assigned serial numbers to the vouchers lodged by him which is required under 2(f) of Chapter XI of Hand Book for Returning Officers. He has also not enclosed the vouchers for the expenditure incurred by him on Printing charges. The account in original together with the vouchers are herewith sent for Commission's perusal and return."

Then the District Election Officer in accordance with rule 89(3) published a copy of the report by affixing the same to his notice board. The report sent by him has been called from the Election Commission's Office which is Ex. P. 794(1). The report as sent to the Election Commission Office refers to both the candidates. The petitioner's name was entered therein first and the respondent's name later. In column No. 8 as against petitioner a sum of Rs. 23,000/- has been mentioned as the total expenses incurred and as against the respondent it was shown as Rs. 15384-92P. In remarks column (9) as against the petitioner's name it was written thus: "The stamped voucher for Rs. 1192/- given by Vijaya Auto Service Station has not been accounted for in the account of Election Expenses. The name of the payee has also not been noted on the voucher." As against the respondent it was mentioned in remarks column: "The vouchers have not been given serial Nos. and the vouchers exceeding the expenditure of Rs. 20/- have not been stamped." In column 7 which relates to a brief statement of defects noticed, it was stated "The vouchers relating to the printing charges have not been enclosed. There are no details for the sum of Rs. 1438-65 relating to other miscellaneous expenditure." A pencil mark was made to show that the remarks in column 9 as against the petitioner was to be connected to the remarks against the respondent. Who made these pencil marks is not known. In the office copy of the Collector Ex. R. 39 which was prepared on 5th June, 1967 it would appear that the remarks with regard to the stamped voucher for Rs. 1192/- were inserted later as the difference in ink must necessarily lead to that conclusion and the way in which it was inserted is also indicative of the same. It is however clear that the forwarding letter dated 6th June 1967 sent on 8th June 1967 does not bear reference to this important point or matter. The Election Commission thereafter issued notice Ex. P. 795 showing the defects in the election return as follows:—

"The Account has neither been signed by the candidate nor certified to be a true copy of the account kept by himself or by his election agent.

(2) 13 vouchers for printing charges have not been produced.

(3) The details of expenditure of Rs. 1438-65 have not been furnished."

The respondent was called upon under sub-rule (5) of rule 89 of the Conduct of Elections Rules, 1961 to show cause why he should not be disqualified for this failure. He was given 20 days time for making his representation in writing and sending a copy thereafter to the District Election Officer and rectifying the defects in the account already lodged by him. In case of failure it was made clear that he shall be liable to be disqualified under Section 10A of the Representation of People Act. It is clear that the defects pointed out therein are exhaustive of all the defects found in the election return filed by the respondent. There is no reference to the voucher for Rs. 1192/-. This letter is dated 7th July 1967. On 14th July 1967 under Ex. P. 796 the respondent made his representation. Therein he stated that the account lodged by his election agent is a true copy of the account kept by him or on his behalf and he therefore certifies it accordingly. As regards the non-production of 13 vouchers in connection with the printing charges he said that so far as he could recollect, these vouchers were enclosed along with the account. As these vouchers are stated to be not found with the rest of the vouchers he will obtain duplicate vouchers for the same and make good the deficiency by submitting them to the District Election Officer. As regards the third defect pointed out in the notice he said the details of expenditure on miscellaneous items amounting to Rs. 1438-65Ps. represent the expenditure incurred for his workers on food, refreshments, stationery and travelling from time to time. He said he will also furnish the details of this account as far as possible to the District Election Officer. He requested that no action as envisaged under Section 10A of the Act may be taken against him. A copy of the same was forwarded to the District Election Officer. On 16th August 1967 the respondent received intimation from the Under Secretary on behalf of the Election Commission stating that the explanation submitted by him in his letter dated 14th July 1967 for not filing the return of election expenses in the manner required by law has been accepted and it was decided that no further action will be taken in the matter. A copy of the same was sent to the District Election Officer. Thus it would appear that the defects both in keeping the accounts and in the manner of submitting the same and the other irregularities pointed out as to the mode of compliance with provisions of S. 77(1) and (2) have been rectified and also condoned by the Election Commission so there the various objections raised by the petitioner in this case as to the non-compliance of section 77(1) and (2) by the respondent in relation to the maintenance of accounts and the submission of

the return of election expenses should no longer fall for consideration. Any irregularity committed either in keeping the account or in lodging the account of election expenses is certainly not a corrupt practice to be inquired into as such. Be it noted that while an election can be called in question by way of an election petition duly presented on any ground or grounds as referred to in Sec. 81, Sec. 84 refers to the relief that can be claimed by the petitioner. He may claim a declaration that the election of all or any of the candidates is void and may also claim a further declaration that himself or any other candidate has been duly elected. No further relief can be claimed under any provision of the Act in this behalf. The grounds for granting the above reliefs are specified exhaustively in sections 100 and 101 respectively. Sec. 98 which provides for orders to be made in this behalf is Explicit. Sec. 99 specifies further orders that may be passed on conclusion of the trial. Thus it is manifest that for the reliefs that could be granted under the Act, the requisite grounds as mentioned in sections 100 and 101 must exist. The right conferred being a creature of statute, any petitioner cannot claim any right apart from the provisions of that statute. So then unless noncompliance with the provisions of Sec 77(1) and (2) can constitute a ground for declaration of election to be void within the meaning of sec. 100, the petitioner cannot claim that relief in this case. He could claim that relief if that were a corrupt practice. But it is not so as it does not come within the ambit of the relevant provision. Obviously enough, section 123(6) takes in only cases where the expenditure has been incurred or authorised in contravention of sec. 77. The corrupt practices contemplated by sec. 123(6) consist only in incurring or authorising expenditure in such amount as would exceed the maximum limit prescribed by rules as contemplated by sec. 77(3). In this behalf it is sufficient here to refer to the decisions in GHAFAR ALI KHAN v. KESHAV GUPTA (A.I.R. 1959 All. 264), SHEOPAT-SINGH v. NARESHCHANDRA (A.I.R. 1958 Rajasthan 324), C. R. NARASIMHAN v. M. G. NATESA CHETTIAR (A.I.R. 1959 Mad. 514), MUTRIAH CHETTIAR v. GENESAN (A. I. R. 1960 Mad. 85) and G. VASANTHA PAI v. SRINIVASAN (A. I. R. 1962 Mad. 239). In Election Petition No. 12 of 1967 I have discussed this aspect of the question with reference to case law on the point. I do not think it necessary to deal with that aspect once again in this case. Sufficient to say that only where there is a contravention of sec. 77(3) by authorizing or incurring expenditure in excess of the maximum limit prescribed that sec. 123(6) will be attracted.

It is pointed out that the noncompliance with the provisions is substantial in that the account of election expenses was not kept by that this irregularity falls within the mischief of sec. 100(1) (d) (iv) of the Representation of the People Act and it has materially affected the result of the election, certainly that would fall for our consideration. But such is not the plea as raised by the petitioner. The only plea raised is that which forms the subject-matter of Issue No. 10(b). It is argued that the return filed is based on the statement of account prepared by Dharma Rao and is not a copy of the account maintained by K. Venkaiah in his diary, Ex. P. 793 and further it is not signed by the candidate but by his election agent and that the original account was not personally maintained by the candidate or his election agent and neither the return nor the vouchers were signed by the candidate or were lodged by him. There was thus noncompliance with the mandatory provisions of the Act which entails penal consequences. Such a noncompliance cannot be lightly passed over and must invalidate the election.

As I have already observed, statutory penal provisions prescribed were sought to be enforced for the irregularities in compliance with the provisions of Sec. 77(1) and (2) and as these irregularities were cured within given time action was dropped. It was done in compliance with the provisions and by the competent authority. As no further penalty is contemplated by law the petitioner cannot invoke any other penalty. All that he can rely on is sec. 100(1) (d) (iv). In that case he should prove further that this irregularity materially affected the result of the election so far as the returned candidate is concerned. But that has not been done. Issue No. 10(b) is decided accordingly.

Now there remains Section 77(3). Section 77(3) as already noticed prohibits expenditure in excess of the maximum prescribed by the rules. Rule 90 lays down such a maximum. As per that rule, the total of the expenditure of which account is to be kept under Section 77 as incurred and authorised by the candidate or his election agent in connection with an election at any one parliamentary constituency shall not exceed Rs. 25,000/- in the case of any parliamentary constituency in any

State other than the State of Nagaland and Rs. 10,000/- in the case of a constituency in the State of Nagaland or of a constituency in any Union territory. The allegation of the petitioner is that the respondent has exceeded the maximum limit prescribed by the rules and has spent more than three lakhs on various items, thus committing a corrupt practice within the meaning of Section 123(6) of the Representation of People Act. So that I have to see in this case whether the respondent has incurred or authorised expenditure in connection with his election between the date of publication of the notification calling the elections and the date of declaration of the result thereof (both days inclusive) a sum exceeding Rs. 25,000/-. If that be proved it should be held that the respondent has committed the corrupt practice under Section 123(6). Of course even so the contention of the learned counsel is that the maximum limit as fixed being unconstitutional the question of commission of corrupt practice would not arise. It is argued that fixation of maximum limit of expenditure is essentially a legislative function which could not have been delegated to the rule making authority without laying down the policy or determining the rules for its guidance. This aspect of the matter is covered by issue 10(a). I shall consider if necessary when I come to that issue. For the present I have to consider the question whether the respondent has contravened the provisions of S. 77(3). He denies that he has exceeded the limit prescribed. His contention is that his return of election expenses correctly represents the expenses incurred and authorised by him and its extent is within the maximum limit prescribed.

Now I have to see how far the petitioner has established the alleged corrupt practice. The averments in this behalf are to be found in para 6 of the petition. Various instances are set out in its sub-paras (a) to (g). Sub-para (b) relates to the expenses actually incurred on purchase of petrol. Whereas the return shows a sum of Rs. 1,013.73 P. expended on petrol the allegation of the petitioner is that the actual expense is Rs. 27,192/-. Thus there is a difference of more than Rs. 26,000/-. A large volume of evidence also has been adduced in this behalf. If this item is proved as alleged the other items need not be considered at all in order to determine whether the petitioner has committed corrupt practice for it will be a contravention of Sec. 77(3) if the total expenditure exceeds Rs. 25,000/- by even a single pie. The total expenditure as shown is Rs. 15,834.92 P. leaving a margin of less than Rs. 10,000/-. The allegations in para 6(b) are these:—

1. That a voucher dated 30th April 1967 given by Vijay Auto Service Station for Rs. 1,192 for purchase of petrol and lubricants was lodged with the return of election expenses. This item was not included in the account of election expenses.
2. That the sums of Rs. 10,000/- and Rs. 6,000/- respectively were incurred on purchase of petrol from the following pumps:
 - (a) Esso Standard Petrol Bunk, Srikakulam Proprietors-K. Satyanarayana and B. Narayana Babu.
 - (b) Esso Standard Petrol Bunk Sompeta (Kanchili).
3. That a further sum of Rs. 10,000 was spent on purchase of petrol from—
 - (i) Haji Jamal Haji Shakoor Nool Mohammed—Caltex Petrol pump;
 - (ii) Burmah Shell Petrol Pump Tekkali—Proprietor Vakalambaram Naidu;
 - (iii) Caltex Bunk, Itchapuram—Proprietor L. Dharma Sahu;
 - (iv) Caltex Petrol Bunk, Narasannapeta—Proprietor T. V. K. Bros.
 - (v) Indian Oil Corporation Ltd., Srikakulam—Proprietor M. S. Murty.
 - (vi) Ramalingeswara Filling Station, Burmah Shell, Amadalavalasa.

The respondent admits purchase of petrol from four bunks at Srikakulam viz. (1) Indian Oil Corporation Ltd., (2) Esso Standard Petrol Bunk, (3) Burmah Shell i.e. Vijaya Auto Service and (4) Caltex, Srikakulam.

He also admits purchase of petrol from (5) Esso Petrol Bunk, Sompeta and (6) Caltex Petrol Bunk, Ichapuram. He does not admit the purchase of petrol from any bunk at Tekkali, Amadalavalasa or Narasannapeta. He disputes further the extent of petrol as alleged by the petitioner to have been purchased.

He admits to have purchased petrol only of the value of Rs. 205.95 from Esso Standard Petrol Bunk, Srikakulam and of Rs. 696.68 from Esso Standard Petrol Bunk, Kanchili (Sompeta). The value of petrol and oil which he purchased from the other admitted bunks does not exceed Rs. 200/-. According to his averment in the written statement he submitted along with the return of election expenses

all the vouchers in this behalf. The vehicles that he used for election purpose were only four in number and they were: (1) APK 9486 jeep (2) APU. 7414 Ambassador Car, (3) APY. 7719 Ambassador car and (4) APG. 4329 Fiat Car. It is only for these vehicles petrol and oil were purchased. The purchases from the Indian Oil Corporation Limited are evidenced by voucher Nos. 6 and 22 dated 31st March 1967 and 5th April 1967 respectively, and they are in sum of Rs. 17-18 and Rs. 8-10 for APU, 7414 and APK. 9486 respectively. The purchase of petrol from Vijaya Auto Service is as below:—

1. Petrol for APK 9486 on 11th April 1967 of the value of Rs. 17-80 is evidenced by bill No. 7092. The carbon copy Ex. P. 608 filed by P.W. 22 shows only a sum of Rs. 17-60.
2. APU. 7414—petrol of the value of Rs. 17-69 on 21st April 1967 Voucher No. 81 Ex. P. 793(x) and bill number is 7226. Here again the carbon copy, Ex. P. 648 shows only a sum of Rs. 18-48 that being the value of 21 litres of petrol.
3. APG. 4320—Petrol on 21st April 1967 of the value of Rs. 13-35 as evidenced by voucher No. 82, Ex. P. 793, its bill number being 7223. Here again the carbon copy Ex. P. 646 shows only a sum of Rs. 13-20 as the cost of 15 litres of petrol.

The purchase of petrol from Caltex Petrol Bunk, Srikakulam is to the extent of only a sum of Rs. 24-03 which was made on 20th April 1967 for APU. 7414. It is evidenced by voucher No. 76. The carbon copy Ex. P. 244 shows it is the value of 27 litres of petrol. From Itchapuram Caltex Bunk the purchase is admitted only to the extent of Rs. 21-39 on 7th April 1967 for A.P.G. 4329 under Ex. P. 203 bill No. 73.

As regards Esso Standard Bunk, Srikakulam it is the case of the respondent that not all the vouchers have been sent by the Collector's office. The Collector's Office on the other hand has informed the court that all the vouchers filed were sent and that there were no other vouchers with them. On a perusal of the return of election expenses, Ex. P. No. 793, it would appear that the respondent had shown in the relevant column which of the vouchers were enclosed and which were not enclosed. The return in the last column shows some endorsement in red ink probably made in the Collector's office. It refers to certain vouchers which were shown in the relevant column as enclosed as having been found not enclosed. These relate to printing charges, petrol licence fee for making deposit in treasury, court-fee stamps for mike battery and miscellaneous expenses. Six of such vouchers relate to petrol. Out of the vouchers received in connection with this bunk which are marked Ex. R.11 only Exs. R.13 and R.14 have been admitted by the witnesses. These are the seven vouchers out of 12 vouchers claimed to have been filed by the respondent along with the return. As already stated the respondent has admitted purchase of petrol to the extent of Rs. 205-95 and from Esso Standard Petrol Bunk, Kanchill (Sompeta) only to the extent of Rs. 696-68.

As the petitioner claims that the respondent has purchased more petrol than what is admitted by him and he has adduced evidence both oral and documentary in relation to purchases from all the Bunks except from the Indian Oil Corporation Limited I propose to deal with the evidence in regard to each Bunk. There are altogether 8 witnesses, one witness for each bunk except in case of Esso, Kanchill for which two witnesses, P.Ws. 1 and 23 have been examined. P.Ws. 2, 3, 4, 5 and 6 are for the concerned pumps situate at Itchapuram, Srikakulam, Narasannapeta, Tekkali and Amadelaivalasa respectively. P.W. 22 is for Vijaya Auto Service Station and P.W. 19 is for Esso Petrol Pump, Srikakulam.

I propose to take up first the evidence of P.W. 2, Janela Suryanarayanamurti, the manager of the Caltex Petrol Bunk Itchapuram. The bunk belongs to Labhala Dharma Sahu & Sons. The witness has given evidence with reference to bills, books, daily challan forms, day-books and E form book. He spoke of 14 vehicles for which petrol was supplied from the bunk and referred to Exs. P. 194 to 232

in relation thereto. The details of the vehicles and the bills relating thereto are as below:

Sl. No.	No. of Vehicle	Exhibit marks of bills
1	APF 2186	P-194, P-195, and P-200
2	F/R	P-196 to P-198
3	A.P.F. 2187	P-199
4	APG 4329	P-201 and P-212
5	APK 3518	P-202
6	ORJ 2293	P-203
7	APC 1473	P-204, 209 to 211 and 213 to 219, 222 and 223.
8	APP 97	P-207 & P-208
9	APS 642	P-220 and P-221
10	APN 3609	P-224, P-225 and P-227 to P-229
11	APT 4077	P-226
12	APS 421	P-230, P-231 and 232
13	Vehicle without Number	P-205
14	APK 7911	P-206

As already stated, the respondent has admitted to have purchased petrol only once and that for APG 4329 for which bill No. 73, Ex. P-201, was given. That was on 7th April 1967. He has not admitted purchase of petrol at any other time. None of the vehicles about which the witness deposed is admitted to be vehicle belonging to or to have been used for purposes of election by the respondent, except APG 4329 Flat car. The witness deposes that the particulars shown in these bills are also shown in the challan forms and that the bunk maintained day-book and daily challan forms regularly and in the course of business. He admits that there are two gumastas, one for night duty and the other for day duty. It is only in their absence that he writes the account. Out of the bills referred to he wrote only bill Nos. 24, 38, 91, 184, 158, 201, 212, 216 and 308. He says that the bills bear the numbers of the vehicles but not the names of the owners and so he cannot say which vehicle belongs to which person. He admits that the bunk being situated on the High way, Madras to Calcutta, many cars and vehicles pass by that road. Even with regard to Bill Nos. 201, 212 and 216, he cannot say who came and took petrol. He says that there is a column in the bill for the name of the person who purchases petrol but admits that they keep that column blank. All of them are cash bills. The signatures of the purchasers were not taken on any of the bills. In these circumstances, it is not possible to say who had purchased petrol and for what purpose. He says that Bendalam Venkatesam is the President of Itchapuram Samithi and he used to come with a Swatantra flag in jeep APC 1473 and take petrol. But in cross-examination he says that Bendalam Venkatesam has a samithi Jeep and its number is APG. 551. He further says that petrol was taken in a drum in APP 97 with Swatantra flag on. Bendalam Venkatesam Sarma has been examined as R.W. 27. He categorically denied that he made use of any jeep bearing number APC. 1473 or vehicles APP. 97. He denied also that he purchased 220 litres and 27 litres of petrol or any petrol at all. This statement effectively rebuts the contention of P.W. 2. P.W. 2 further deposes that in jeep APS. 421 petrol was taken by Vadda Krishnamurthi. He admits that he always takes petrol from the Bunk. How then can it be said that it was for election purpose? R.W. 27 says he went in Krishnamurthy's car. Krishnamurthy is a landlord and a party worker. He purchases petrol for his car. R.W. 27 did not incur any expense on that account. But for these two persons P.W. 2 does not name any other. He admits he himself is not a member of Swatantra party. He does not know who the Secretary and President of that party are. He does not know who had worked for the Swatantra party candidate. His proprietor is a Congressite and has worked for the Congress. He toured in his own car. He cannot say whether any Congress cars came to his bunk or not. Then again he says that Congress cars came with flags on but he cannot say who came and took petrol for them. If that is the interest he evinces for the cars of the Congress, for which his proprietor has admittedly worked, how he could have any interest in remembering the Swatantra party cars is difficult to understand. Vadda Krishnamurthi, according to him used to come in his own jeep. The witness of course gives the numbers of Vadda Krishnamurthi's jeep and that of Bendala Venkatesam's but it is not on the basis of his memory. It is only on the basis of bills. He admits that he is not concerned with writing the day-book and

ledger. Thus it may be seen that his evidence is devoid of any probative force for unless it is proved that the petrol was given to the cars under the control of the respondent or at his instance, there is no question of the respondent having incurred any expenditure. Supplying of petrol to any cars whose ownership is not established would not cast any liability on the respondent. It is important to note that this bunk belongs to the firm of Labhala Dharma Sahu and Sons. Dharma Sahu is a Congress worker and closely attached to the petitioner. Labhala Jagannadham is the elder brother of Dharma Sahu. It is suggested to the witness that Jagannadham was the treasurer of Itchapuram Town Congress. Sundara Rao is the son of Dharma Sahu. Latchanna's wife was assaulted at the time the general elections. The witness does not know whether a case in that connection was brought against Jagannadha Patnaik the personal assistant of the Raja of Surangi whether Sundara Rao was a witness for the accused and whether that case ended in conviction. He also does not know whether the petitioner stays with his proprietor whenever he comes to Itchapuram. Dayanidhi is another son of his proprietor. He does not know whether he stood surety for the petitioner Rajagopala Rao in a criminal case. That his proprietor Dharma Sahu had worked for the Congress is admitted by him. There is sufficient material on record to show the close connection between the petitioner and Labhala Dharma Sahu and his friends in political and other activities. The testimony of the witness, therefore, is certainly of an interested nature. So any of his statements which may suggest that the petrol supplied to the said cars was the petrol given to the Swatantra Party candidate or for the election purposes of the respondent cannot have much probative value unless there is corroboration by oral or circumstantial evidence. As it is, his statement is not categorical in that behalf. He has written all the bills either. The persons who wrote them or the account books have not been examined. As his evidence is deficient in connecting the cars which took petrol from the bunk with the Swatantra Party candidate, it cannot be held that the candidate had incurred expenditure on petrol for the purposes of election to the extent covered by the bills Exs. P. 194 to 232. Of course, according to the bills the car belonging to the respondent had taken petrol twice as per Exs. P. 201 and P. 212 once on 7-4-1967 as per bill No. 73 (Ex. P. 201) to the extent of 23 litres, and again on 19-4-1967 as per bill No. 213, Ex. P. 212. But since the latter has not been admitted nor has been proved otherwise except by the deposition of P. W. 2 who himself has not written or issued these bills and further who has not categorically stated that the petrol was given to that car or at the instance of Mr. Ganga or for the purposes of the election of Mr. Ranga, it cannot be said to be proved as an expenditure incurred or authorised for election purposes.

The next witness P.W. 3 deposes about the Caltex Petrol Bunk at Srikakulam. He is Samiulla by name and the manager of the petrol bunk. He produced the bill books from 30-3-1967 to 30-4-1967 which contain the numbers of the vehicles, the quantity of petrol supplied and the amount paid. He says that in the cash bills the names of the owner are not written. They are written only in the credit bills. It is only with reference to the cash bills that he has deposed in this case. The bills that have been sought to be proved by this witness relate to eleven vehicles and they are marked Exs. P. 233 to P. 276. The numbers of vehicles and the bills relating to them are as below:—

Sl. No.	No. of Vehicle	Exhibit mark of bill
1	MRA 4024	P-233
2	APU 7414	P-234 and P-243
3	WBD 2105	P-235
4	APK 3518	P-236 & P-241
5	APU 3082	P-237, P-244 & P-246
6	APK 6444	P-238 & P-240
7	APG 672	P-239
8	APS 1481	P-242, P-247 & P-248
9	MSX 9973	P-245

S. No. No. of V chit:

Exhibit mark of bill

10 APS 1502 P-249

11 SJ-APV 6091 P-250 to P-276

Of these cars only APU 7414 is one of the cars used for election purposes on behalf of Mr. Ranga. Only one bill No. 20876 dated 20th April 1967 for 27 litres of petrol of the value of Rs. 24-63 evidenced by voucher No. 76, relates to this car and it is admitted. In fact, the voucher was enclosed to the return of election expenses. There is also another car APV. 7414 which has been referred to by this witness, to which petrol of 5 litres of the value of Rs. 4-45 was supplied on 30th March 1967 under bill No. 15568. This does not relate to the respondent and it is not connected with election purposes. The witness has stated that APU 7414 was mostly used by GOUTU Latchanna and he says this on the basis of his personal knowledge. He also speaks of APU 3082 as belonging to Simma Jagannadham. He says he travels in that car, and he is Swatantra Party, M.L.A. of Narasannapeta who had worked and toured for the Swatantra Party, in the election. APV 6091, to which he has also referred, according to him belongs to Srikakulam bus-owner Chitti Babu. This car used to come to his petrol bunk with Swatantra Party flag. As regards the preparation of bills, the witness says that there are four or five gumastas in the petrol bunk and all of them make entries. He is only the manager. Some bills of course are in his handwriting as well. He identifies the handwritings of his gumastas. As regards the vehicles, apart from these three cars the witness is unable to connect the other cars with the Swatantra Party. Even with regard to these vehicles, it is difficult to depend upon his testimony much. He is working at Srikakulam from 1961. He was present there in 1962 and 1967 general elections. He can however speak of only the 1967 general elections when the Congress candidate for the Assembly seat was Andhavarapu Thavitalah Tangi Satyanarayana was then the Swatantra Party candidate and Lanka Krishna Rao was the Jan Sangh Candidate. He says that Latchanna, Simma Jagannadham and Chitti Babu then worked for the Swatantra Party, and the M. A. Raof had worked for the Congress besides some other persons about whom he does not know. He admits he is neither a member of the Swatantra Party nor its Sympathiser. He cannot say how many cars came with flags on and without flags. He says that no car with Congress flag had come to his bunk and no person belonging to the Congress opened an account with them. In spite of a statement so categorical, he admits in the next breath that Raof used to take petrol from his bunk, that he is a Congress worker and that at the time of election, his car has a flag. He speaks of the vehicle number of Simma Jagannadham. He says it is a jeep. He does not know where his house is and whether he is a practising lawyer or not, even though he has been seeing him for the past 4 or 5 years. He cannot say who came in his car on 30th March 1967. He cannot say in relation to the other vehicles that he deposed as to who had come to take petrol. He admits that the gumastas had issued petrol and not he. In these circumstances, his evidence with regard to the vehicles of Simma Jagannadham is not of much consequence. As regards bill-books he says that he never leaves any bills blank; but it is evident from his own testimony that some of the bills are still blank. Not only this, in between Exs. R-8 and R-7 one bill book is missing and in between Exs. R-8 and R-9 five or six books missing. It is manifest that the bill books are not in regular order. It is also evident that the witness has no personal knowledge about the persons who had taken petrol in these cars. He has no personal knowledge of the fact that they are the cars used for election purposes. If two of the cars according to him, belonged to Simma Jagannadham and Chitti Babu, it does not naturally follow that those cars were used for election purposes. The owners are at liberty to travel in their cars for their purposes. It would also appear from the statement of this witness that his proprietors are whole sale dealers in grains and that they also deal in kerosene and other general goods at Amadalavalasa. The petitioner's brother Narayanamurti is the President of the Marketing Committee at Amadalavalasa, which has control over fixation of prices of marketing commodities. The interested nature of this witness is therefore obvious. It is clear that there is nothing to prove that the cars referred to in the bill books were connected with the election of the respondent or they were supplied petrol from this bunk for election purposes, so that it may be said that apart from the petrol purchased for which the voucher relied on was given, there was any other instance of issue of petrol to the vehicles connected with the respondent or any expense was incurred by him on that account.

P.W. 4, C. Appa Rao, is accountant in T. V. K. Brothers, Caltex agents, at Narasannapeta. He brought his bill books and daily sheets relating to petrol, oil, lubricants and other motor car accessories, etc., for the month of April 1967, from 1st April 1967 to 30th April 1967. The vehicles in relation to which he gave his evidence are four in number and the bills are marked as Exs. P-279 to P-285. The details of the vehicles and the bills thereof, as deposed to by him are as below:

Sl. No.	No. of vehicles	Exhibit mark of bill
1	MSX 9973	P-279 and P-280
2	APT 576	P-281
3	N.G. Ranga Car APG 4329	P-282 and P-283
4	APV 723	P-285
5	APG 1552	P-284

The witness says that all these bill books and daily sheets have been written by gumastas and none by himself. Nagabhushana Rao and Prasada Rao have written the daily sheets. The daily Chitta has been written by all the three. He admits that Prasada Rao and Nagabhushana Rao are still in service and that he himself not only did not write any of the bills or daily sheets but also was not even present at the time when petrol was issued and the bills were written. His proprietor is T. V. Kumara Gupta who contested against Simma Jagannadham and was defeated in Narasannapeta Constituency. His proprietor has got two rice mills and the petitioner is the President of the District Rice Millers' Association. He refers to the search of the rice mill of his proprietor by the C.I.D. and he cannot say whether the petitioner Rajagopala Rao helped his proprietor in that connection. This is the state of evidence of this witness. It is clear that none of the cars specified by him can be connected with the respondent except those shown in bill Nos. 220 and 221 (Exs. P-288 and P-283) in which car number is not given but the name of N. G. Ranga is written. There is none to vouch that N. G. Ranga had personally come there and taken petrol. The tour programme of Ranga, Ex. P-783, for 16th April 1967 does not show that he passed through Narasannapeta so that there might be any occasion for him to take petrol from this bunk. Ranga has categorically denied on oath that he had gone there or taken petrol.

P.W. 5 Jammi Appalla Narasimhulu, is the representative of Vakulabharanam, agent of Burmah Shell. He speaks to the petrol bunk at Tekkali. He brought bill books for the month of April 1967 and also rough note-book relating to daily sales. The bill books contain the details of name, place, vehicle number, number of litres and amount. He has deposed to the bill books and rough day-books. He speaks of 12 vehicles to which petrol was supplied according to the said bills. The bills relating to these vehicles are marked Exs. P-286 to P-336. The vehicles and the bills relating to them are as below:—

Sl. No.	Vehicle No.	Exhibit marks of Bills
1	APN 3069	P-286, P-289, P-291, P-294, P-296, P-297, P-298, P-299, P-300, P-301, P-313 & P-316.
2	AGP 1620	P-287
3	Jcep	P-288, P-290, P-293
4	APY 1438	P-292, P-329, P-331.
5	APL 5242	P-295
6	APT 8347	P-302, P-303, P-305, P-306, P-310, P-314, P-315, P-327
7	MSR 525	P-304, P-307, P-309, P-311, P-312, P-317, P-319, P-322, P-323, P-325, P-327, P-330, P-332, to P-336
8	F/R	P-308, P-318, P-320
9	APK 6444	P-321
10	APK 6047	P-328
11	ORS 5270	P-320, P-321
12	DLG 4029	P-326

He says both the Congress and the Swatantra Party people took petrol from his bunk but to his recollection the Swatantra Party people took more. He is an employee getting a remuneration of Rs. 65 per month. There were two watchmen in the bunk. Only one of them can write and his name is Narayan Borodo. Ordinarily the witness issues petrol and writes the books. In his absence the others issues petrol and write bills. He nevertheless says he cannot say who came in the cars, who took petrol and for what purpose. He says that he has not brought fair chitta Book. He was Secretary in 1962 of the Co-operative Society, of which the petitioner was the President. The Society of which he was Secretary was a member of the Central Bank, and entitled to vote for a delegate to the Central Bank. He also admits that he met the petitioner and ascertained from him what he wanted from him. Apart from the interested nature of his testimony, none of the cars shown in the bills referred to by him are proved to have belonged to the respondent or used by him for election purposes. There is nothing to suggest that the petrol was given at the instance of the respondent his agent he took the petrol himself. In the absence of any such evidence which may connect the respondent with the cars and the petrol given to those cars, nothing material can turn upon his evidence.

P.W.6, Simha Chalam Patnaik, is the Accountant of Rama'ingeswara Filling Station at Amadalavalasa. He too has deposed with reference to bill books which contain date, vehicle number, quantity and amount. If the vehicle is not brought, he says the name of the owner is entered. He speaks about four vehicles and the bills relating thereto are Exs. P. 337 to P. 344. They are as below :—

Sl. No.	No. of vehicle	Exhibit marks of bills
1	APG 1552	Ex. P-337, P-338, P-342, P-343
2	APK 3518	Ex. P-339
3	APU 3082	Ex. P-340 & P-341
4	APK 4188	Ex. P-344

None of the cars is proved to belong to the respondent. The entries in the bill's are not made by the witness. Daily chitta is prepared by the Grand son of the proprietor. He did not bring the chitta. The witness says that he does not know the owners of the cars which came for petrol. He does not know also who used to come in the cars. He says that the cars had the Swatantra flag on them. But at the same time he admits that he was not present when the cars came for petrol except on one or two occasion. Even with regard to that he cannot give details. His duty was not to issue petrol or write bills. He however says that he knows that the cars were used for canvassing. It is strange, when he did not see the cars themselves which came for petrol, how he could say the same cars were used for canvassing. He stays at a distance of two furlongs from the petrol bunk. His means of knowledge, therefore, must be very limited. In re-examination he was asked what were the cars the numbers of which he could give. He gave some numbers but in answer to a Court question he says that he does not remember the numbers of all the cars. His evidence is not satisfactory and the entries in the books do not connect the respondent in any manner whatsoever.

Then we come to Esso Standard Petrol bunk, Sriekulam of which the proprietors are K. Satyanarayana and B. Narayana Babu. This is one of the admitted petrol bunks from which some petrol was taken on behalf of the respondent. The case of the petitioner, as set out in para 6(b) (2) of the amended election petition, is that whereas an expense of Rs. 10,000/- for the purchase of Petrol from this petrol bunk has been incurred, only a sum of Rs. 200/- has been shown in the account of election expenses. The respondent, in his additional written statement, denied that such a huge amount of Rs. 10,000/- has been expended on that account. According to him, only a sum of Rs. 205—95 P. as shown in the return of election expenses has been expended on the purchase of petrol from that petrol bunk.

P.W. 19. Panduru Veerabhadra Charl, a clerk in the said petrol bunk, has been examined on behalf of the petitioner to prove, with the help of the bill books, the expenses incurred by the respondent for purposes of bye-election by way of purchase of petrol from that bunk. The bill books are concerned with the period

from 1-4-1967 to 30-4-1967 and they contain the number, the date, the vehicle No., the quantity and the amount. The bills referred to by him are many and they are marked as Exs. P-360 to P-576. Later, at the end of his cross-examination, he was called upon by the Advocate for the petitioner to depose about the daily sales books which he had brought with him. The entries referred to therein are also marked and they are Exs. P-713 to P-715. The entries relied upon refer to as many as 30 vehicles. The details of the vehicles and the exhibits pertaining thereto are as follows:—

Vehicle No.	Exhibits
1. M.R.A. 4024	Exs. P. 360, 363, 365, 366 & 369.
2. A.P.I. 576	Exs. P. 361, 362, 373, 376, 379, 401, 405, 408, 416, 422, 426, 437, 447, 457, 463, 472, 474, 507, 509, 512, 513, 515, 520, 523, 525 and 540.
3. M.S.X. 9973	Exs. P. 364, 368, 418, 496, 498, 503, 504, 570, 573, and 576.
4. A.P.K. 4188	Exs. P. 367, 473, 481, 501 and 568.
5. A.P.G. 1552	Exs. P. 370, 398, 411, 415, 419, 429, 444, 468, 505, 517, 519, 524 & 533.
6. A.P.S. 1440	Exs. P. 371, 381, 383, 387, 389, 423, 425, 431, 432, 454, 485, 491, 492, 494, 499, 547, 559.
7. A.P.C. 1620	Exs. P. 374, 377, 382, 395, 414, 420, 448, 462, 480, 486, 488, 502, 508, 541, 550, 557, 561 and 567.
8. M.R.X. 5242	Exs. P. 375, 450, 453, 467, 470, 477, 543, 545 and 555.
9. A.P.V. 6091	Exs. P. 378, 380, 386, 397, 402, 407, 409, 438, 439, 443, 449, 456, 471, 489, 510, 514, 518, 528, 531, 535, 542, and 548.
10. W.B.D. 2105	Exs. P. 384, 493, 511, 563, & 571.
11. A.P.C. 1473	Exs. P. 388.
12. M.S.R. 525	Exs. P. 390, 391, and 396.
13. A.P.K. 9486	Exs. P. 392, 394, 399 & 516.
14. A.P.K. 6444	Exs. P. 393, 404, 406, 410, 424, 440, 521, 522, 526, 529, 536, and 558.
15. A.P.V. 1734	Exs. P. 565 and 572.
16. A.P.S. 1031	Exs. P. 400.
17. A.P.S. 1481	Exs. P. 403.
18. A.P.C. 5174	Exs. P. 412, 417, 436, 446, 464, 476, 487, 497, 530, 534, 539, 556 and 560.
19. A.P.P. 97	Ex. P. 413.
20. A.P.U. 3082	Exs. P. 421, 442, 490 & 562.
21. A.P.T. 8347	Exs. P. 427, 434, 441, 482, 532, 537 and 575.
22. B.M.L. 4995	Exs. P. 385, 428, 433, 445, 451, 478, 484, 506, 527, 538, and 544.
23. A.P.G. 1478	Exs. P. 430, 452, 455, 469, 546, 549 and 554.
24. D.L.J. 4029	Exs. P. 435, 459, and 551.
25. A.P.S. 642	Exs. P. 458, 460, 466, 552 & 553.
26. A.P.G. 5494	Exs. P. 372, 461 and 465.
27. A.P.G. 1538	Exs. P. 475, 479, 483, 495, 569 & 574.
28. A.P.V. 723	Exs. P. 494 and 564.
29. A.P.B. 421	Ex. P. 566.
30. Jeep (Pola Rao)	Ex. P. 500.

As already noticed, only three cars and one Jeep are admitted by the respondent to have been used for election purposes and they are A.P.K. 9486, A.P.U. 7414, A.P.Y. 7719 and A.P.G. 4329. In the cars referred to by the witness with reference to the bills, there is only one car A.P.K. 9486 which is admittedly the jeep used by the respondent. No other car referred to by the witness has been admitted to be connected with the respondent. There is no evidence whatsoever that the said cars referred to in the bills for which petrol was given did belong to the respondent or that they were used by the respondent or his agents in connection with the bye-election. Also there is no evidence whatsoever that the respondent had directed the petrol bunk to give petrol to these cars or jeeps whatever their description may be. The case of the respondent has been that he has taken petrol for the jeep and the cars, A.P.K. 9486,

A.P.K. 4329 and A.P.Y. 7719 and that he has produced some of the vouchers therefor which are marked as Exs. R. 11 to R. 17. Out of these, only Exs. R. 13 and R. 14 are admitted by the witness. The rest, according to the witness, are not connected with the petrol bunk at an even though the initial thereon and the form in which they are issued tally with the admitted vouchers, Exs. R. 13 and R. 14, and the cancelled original bill that is found in the bill book.

The respondent disputes the genuineness of the bill book itself. It is his case that these bills have been prepared later and in any event they cannot cast any liability on him as he is not concerned with any of the cars to which these bills relate except APK. 9486. The due maintenance of these bill books has not been proved as the person who has made the entries in them has not been examined. The witness is no doubt a whole-time employee but he is concerned only with dealings with Banks. There are six other employees in the bunk, who sell petrol by notes and issue bills. The witness admits that he was never present at the time when petrol was issued and the bills to which he has deposed were written. He says he can only identify the handwriting of the persons who wrote the bills. He admits that the bills do not indicate which car belongs to whom as they are not concerned with the men who had come in the cars and where they had gone. He had seen Pola Kac once or twice during the bye-election. Polarao is the person who is shown in connection with a jeep in the bill Ex. P. 500. Four or five people had come with him and none of them is acquainted with the witness. He cannot give the number of the vehicle. He does not know the numbers of the vehicles of the Swatantra Party for he is neither a member of that Party nor any of the members of that Party has got account with the bunk. It is significant to note that the bills he produced and in relation to which he has deposed were never in his custody. They were with another person who was not employed in the Petrol bunk but is in private service of his master. It is from him that he brought the books. He is unable to say whether Ex. R. 11 is the printed voucher issued by his bunk. The relevant bill-book has not been brought. He says it may be with Narasimhamurti. He admits that the printed form, on which Ex. R. 11 is issued, is the same as is available with his bunk. He cannot depose to the handwriting or say whether it is written by any of the employees of the Bunk. While admitting Exs. R. 13, and R. 14 as having been issued by his bunk he categorically denies that Exs. R. 12, R. 15, R. 16 and R. 17 have been issued by his bunk. The printed forms on which these bills are written tally with the original bills available with the bunk. The initials, found thereon also *prima facie* tally with the initials found on certain other bills issued from the same bunk. But he denies these bills as no carbon copies are to be found in the bill book with the help of which he has deposed in the Court. This is but inevitable if, as contended for on behalf of the respondent, Exs. R. 12 and R. 15 to R. 17 have been issued from a different billbook of the bunk, which have not been produced. He admits that the serial numbers in three books are not printed correctly. They are Exs. R. 18 to R. 20. No. 48 in the bill-book has been corrected as 95. There are certain bills which were cancelled. Ex. R. 23 is one of them. He does not know whether any other bill was issued instead. It is clear that mere production of such bill books is of no avail unless they are proved by the person who wrote them specially when it is the case of the respondent that they are subsequently prepared and Exs. R. 12 and R. 15 to R. 17 cast a veil of doubt on them and support to certain extent the theory of the respondent. For the purposes of the case, as already noticed, unless it is proved that the cars in relation to which petrol is alleged to have been given, are connected with the respondent, there is no question of the cost of the petrol being included in the return of election expenses. As already noticed, except for APK. 9486 for which petrol according to this bill book was issued on 12th and 13th of April, 1967, under Exs. P. 392, P. 394, P. 399 and P. 516 for Rs. 13.35, Rs. 8.90, Rs. 4.45 and Rs. 6.00 respectively, there is no other entry with regard to the issue of petrol or oil to any of the cars which can be connected with the respondent. The respondent has admitted by producing Exs. R. 11 to R. 17 that petrol was issued for the jeep A.P.K. 9486. He has admitted besides that some further quantities of petrol were also issued and he has obtained vouchers as well which were enclosed to the return of election expenses. But the Collector's office has stated that these enclosures were not received. Be that what it may, he has admitted that a sum of Rs. 205-93 was incurred by him by way of purchase of petrol, etc., from the Esso Standard Petrol Bunk, Sriakulam, Proprietors K. Satyanarayana and B. Narayana Babu. Apart from Exs. R. 11 to R. 17 which show petrol issued to A.P.K. 9486, A.P.U. 7414 and A.P.G. 4329, it is admitted on his behalf that there were five other bills which were enclosed

with the return and they were of 17th April, 1967, 18th April, 1947, 24th April, 1967 and 25th April, 1967. In the absence of proof of any excess, no further liability can attach to him. I may make it clear that the bill-books produced are cash bills and do not show either the owners of the vehicles or the persons who took the petrol, etc., and they do not cast any liability on the respondent as the vehicles referred to therein have not been connected with him nor is it shown that they were used for election purposes by the respondent, his agent or any other person with his consent. The vehicles shown therein belong to different places. Some are from outside the State itself. The bunk is situated on the high way where cars from different places on their way take petrol from the bunk. These vehicles cannot be taken into consideration at all for purposes of our case. It is only the cars which are in the possession and control of the respondent and which are connected with the election work that can be legitimately taken into account. The petitioner had to establish that the respondent had incurred expenditure by way of purchase of petrol in excess of what he has vouched for in his return of election expenses. That he failed to establish.

Then we come to Burma Shell Vijaya Auto-Service, Srikakulam. The case of the petitioner in the amended petition is that a voucher dated 30th April, 1967 given by the Vijaya Auto Service, Srikakulam, for Rs. 1,192 relating to the purchase of diesel, petrol and lubricants, was one of the vouchers lodged alongwith the return of election expenses and this item was not included in return of election expenses submitted by the respondent. The respondent has denied in his written statement to have ever submitted such a voucher alongwith his return. He says that if any such voucher is found in the Collector's office alongwith his account of election expenses, the same might have been subsequently fabricated and introduced for the purposes of the petition. It may be recalled that after the return of election expenses was lodged, certain objections were raised and the respondent was called upon by the Election Commission to remove the defects and to show cause why he should not be disqualified for non-compliance with the provisions of Section 77. The defects which were pointed out are that the account was neither signed by the candidate nor certified as a true copy; that certain vouchers for printing charges were not produced; and the details of expenditure of Rs. 1438.63 were not furnished. He was not called upon by the Election Commission to give any explanation why he did not account for the voucher Ex. P. 711 given by Vajaya Auto Service and Ex. P. 712 given in the form of a statement.

The account of election expenses that is to be lodged must contain all particulars as are prescribed and must be in the manner required by the Act and the rules. It was because of the fact that certain vouchers alleged to be submitted along with the return were not enclosed and the details of miscellaneous expenses were not given and the account was not signed by the candidate, and serial numbers were not entered on the vouchers, in other words the account of election expenses was not lodged in the manner required by the rules, that explanation was called for. If there was a voucher without any entry thereof in the return, that also constituted an irregularity for which explanation ought to have been called. It is of course not the duty of the Election Commission to check the correctness or otherwise of the accounts; but non-compliance with the provisions of Sec. 77(1) and (2), so far as it was concerned with the form regulated by the rules, had to be checked by the District Election Officer and the Election Commission had to consider the defects and decide whether the candidate has failed to lodge his account in the manner required by the Act and the rules.

Of course, in the report, Ex. P. 794/1, submitted by the District Election Officer to the Election Commission, in remarks column 9, there is a reference to the stamped voucher for Rs. 1192 given by Vijaya Auto Service Station, and it was stated that it had not been accounted for in the return of election expenses and that the name of the payee also had not been noted in the voucher but this remark as appearing in the column against the name of the petitioner was sought to be connected with the respondent by some pencil marks. By whom and when these pencil marks were made is not known. In Ex. R. 39 called for names and they are obviously later insertions for they are in a different ink and the manner in which they were sought to be brought within the narrow space, clearly indicates that it was inserted later. It may not be that it has been inserted after the report was sent to the Election Commission because, as already stated, in Ex. P. 794/1 also this remark is there in the typed form. However, the fact that no explanation was called for in this behalf is significant. It is also of importance that the name of the payee does not appear at all either

in Ex. P. 711 or 712. Ex. P. 711 is the receipt. It must have been shown to whom it was given or from whom the amount was received. The receipt is silent thereon. Exs. P. 712 and P. 712/1, which purport to be the original and carbon copy respectively, also do not clearly show to whom that account related. In the original it is 'Swatantra Party'; in the carbon copy it is 'Vantra Party'. The respondent's name does not appear at all. If this was given to the respondent, it is strange that both the original and the carbon copy were given away and no copy thereof was retained by the Auto Service Station. As a rule, if carbon copy of a statement of account is maintained, the original having been given to the party concerned, the carbon copy is retained for purposes of record. Here the method adopted is out of the ordinary. Both the original and carbon copy are said to have been given to the party and what is further strange enough is that both of them have been submitted as vouchers for the transaction. Both the respondent and also Latchanna, the election agent, who signed the return of election expenses, vouched for the fact that at the time when the return was sent, no such voucher was enclosed thereto. R.W. 31, in relation to the preparation and submission of the return of election expenses, stated that Venkaiah had given him an account alongwith vouchers before he left for Delhi. He, after reaching Delhi, informed Ranga about the same. Then he got the account fair copied by Sudarsanam, personal assistant of Ranga, after verifying the account with the vouchers. Exs. P. 711 and P. 712 were not in the vouchers which he received from Venkaiah and which, after verification, eventually submitted to the Collector. These Exs. P. 711 and P. 712 have been categorically denied by the respondent and his election agent. It is not the case of the respondent that petrol was not supplied by Vijaya Auto Service Station at all. His case is that it was all cash transaction and whatever petrol was purchased was for cash only. He does not admit the case of the petitioner that there was a credit account opened on 25th April, 1967 and petrol in large quantities was taken from 26th April, 1967 onwards for consumption of a large fleet of cars and lorries for the purposes of election. The respondent avers that petrol was purchased only on three occasions and vouchers therefor duly obtained from Vijaya Auto Service and they were submitted alongwith the return. These vouchers are Exs. P.793/m, P.793/x and P.793/r. On 11-4-1968 a sum of Rs. 17—80 was incurred for petrol for A.P.K. 9486 and voucher therefor is voucher No. 44. Ex. P.793/m. of which the carbon copy is Ex. P.608. It was obtained on purchase of petrol from that bunk and was accounted for in the return. The concerned Bill No. 7022 dated 11-4-67 shows 20 litres of petrol having been purchased for a sum of Rs. 17—80. It is also his case that on 21-4-1967, 21 litres of petrol for a sum of Rs. 18—48 was purchased from the said station. Voucher No. 81 is the voucher therefor. The bill number is 7228. The carbon copy is Ex. P. 648. Similarly on 21-4-1967 itself for A.P.G. 4329, 15 litres of petrol was purchased for Rs. 13—35. The voucher is Ex. P. 793/r and the bill number is 7223. Thus in all a sum of Rs. 49—84 was incurred. He does not admit that any petrol was taken after 23-4-1967.

The case of the petitioner on the other hand seems to be that up to 25th April, 1967, petrol was taken on cash basis from Vijaya Auto Service Station and thereafter, on the evening of 25th April, Venkaiah and Pola Rao went to Vijaya Auto Service Station and paid the proprietor Rs. 1,000/- and requested him to supply petrol on credit for the remaining period of the month. As a result of this, during the period 26th to 29th April, an expenditure of Rs. 1,192/- was incurred by way of purchase of petrol, diesel, oil, etc

In support of this P. W. 22 has been examined as a witness. He is an employee of the bunk. He deposes to the issue of petrol from 1-4-1967 to 29-4-1967. His statement reveals the issue of petrol to as many as 25 vehicles before 25-4-1967 and 13 vehicles from the 26th onwards. These vehicles include a vehicle for registration and also vehicles from various parts of the country, bearing numbers of different States. According to the witness, Swatantra Party people Pola Rao and Venkaiah came and told them that they required petrol. They paid Rs. 1,000/- by way of advance and asked the bunk people to supply petrol to cars which may come on their behalf. Accordingly, petrol, diesel, oil, etc., of the value of Rs. 1,192/- were supplied thereafter. Sudarshana Rao, manager of the bunk, prepared an account and gave Exs P. 711 and P. 712 to him to get the money. He took those papers and went to Srikakulam. Simma Jagannadham, Kinjarapu Krishnamurti and Pola Rao were present there. He handed over those papers to them and got from Simma Jagannadham a sum of Rs. 192/-. He brought that money and gave it to his manager.

In order to show that petrol was actually issued from 26th onwards to the various cars, he has referred to the bill books maintained by the Vijaya Auto Service Station, Srikakulam. Apart from these bill-books, there is no other book which can support the issue of this petrol. He brought another book, Ex. P. 716 which contains the dates total sales of petrol, diesel, engine oil, etc., and in which entries were made according to the bills. But only cash sales are entered therein, credit-sales do not find any place in that book. Ex. P. 711 is the letter acknowledging the receipt of the amount, Ex. P. 712 is the original and Ex. P. 712/1 is the carbon duplicate of the statement of the sales from 26th to 29th. This statement has not admittedly been prepared from any book. Selection of entries was made therefor from the bill books wherein it is said the letters 'S.P.' were written in order to show that petrol etc., covered by the said bills were given to the Swatantra Party in compliance with the agreement entered into on the basis of which Rs. 1,000 was paid in advance. It is clear from the carbon duplicate Ex. P. 712/1 that 'S.P.' was not written on the original but entered only on the copy. The originals he says, were given to the party but that has been denied. The witness says that the letters 'S.P.' were written because no amount had to be collected at the time of the issue of that bill. At the time of the original contract the manager according to him, had given four coupon books of 24 coupons each. These coupons were in duplicate one to be given to the pump and the other to be retained by the party for purposes of record. They are not traceable now. He says that the coupons given were returned when Rs. 192 were collected. He further says that they took back the duplicates and tore them off with the result that there could be nothing in the possession of the pump to show which cars were supplied petrol, etc. He says that the pump people used to take coupons and issue cash bills. The person who issued these coupons has not been examined. It must be noted that in his examination-in-chief the witness did not say that they had given the coupons also to be returned on payment of money or that he had taken the duplicates back from the party. What is the purpose of returning the coupons and taking back the duplicates, thereafter alongwith them, it is difficult to understand. Obviously, the witness is not speaking the truth. With regard to these coupons the witness says that its number was entered only in the first bill that was issued and that is in the handwriting of Sundarsana Rao. He cannot say why the name of the person to whom the coupon was issued was not written and why a similar entry of coupon number was not made on other bills. It is further of significance that whereas in his examination-in-chief he had said that Simma Jagannadham had paid the amount, in his cross-examination he says that it was Pola Rao who paid the amount of Rs. 192 in the house of Jagannadham in the presence of Jagannadham and Venkalah. This contradiction is material and it makes it abundantly clear that the witness is not a witness of truth. As regards the sum of Rs. 1,000 also which is alleged to have been paid in the beginning, there is no satisfactory proof at all. We have to depend entirely upon his statement. This amount is not entered in any of the books. It is said that a receipt was issued but there is no printed receipt. The Service Station must necessarily be having printed receipt books and must be in possession of a copy of the receipt if the transaction is true. But admittedly on no such receipt form was a receipt issued. How Pola Rao was connected with the respondent is not easy to understand. Latchanna has said that Pola Rao is not concerned with any matter in the election. The respondent does not admit that he has authorised Pola Rao to pay any amount on his behalf for the petrol he purchased. Venkalah, who is said to have gone with him, has not admitted this transaction. Then again, as regards the State of writing of Ex. P. 711, it is obvious that it was not written at one time or by one person. There are two different inks. The signatures of the manager also were made twice in two different ways. The reason therefor is not satisfactorily explained. The witness says that he does not know how to read English. Certainly the receipt cannot be said to be proved by such a witness. The witness deposes to the entries in the bill books Exs. P. 667 to P. 710, which are entries from 26th April, 1967. These bills do not show that they are credit bills. Of these bills, Ex. P. 702 to Ex. P. 710 do not bear S.P. They are not credit bills either. There are 49 items of which items 32 to 49 relate to 29th April, 1967. Ex. P. 679, P. 694, P. 695, P. 697, P. 698, P. 702, P. 703, P. 705, P. 706, P. 708, P. 709 and P. 710 do not find place in Ex. P. 712. All these are not covered by Ex. P. 712. They do not show that they are credit bills, either. On the other bills which are shown in Ex. P. 712 'S.P.' is written only subsequently. They also do not suggest that they are credit bills. When put to the witness whether the bills shown in the voucher Ex. P. 711 and P. 712 were credit bills, the witness said that they were not credit bills.

When asked whether the quantity mentioned in Ex. P. 712 is the total petrol supplied to the Swatantra Party, he said that sometimes they used to pay cash and take petrol. He says then inconsistently enough that the bills shown in Ex. P. 712 are not cash bills and that there is no account for them. They are not shown in Ex. P. 716 register. He admits further that every item mentioned in the bill book is a cash transaction. This his evidence shows that the bills that were issued were indeed cash bills but they were to be treated as credit bills to the extent the bills are stated in Ex. P. 712. If all of them were cash transaction, it is surprising that they should not find place in Ex. P. 716. This itself raises a strong doubt whether these bills which do not find a place in Ex. P. 716, could be genuine at all. They have not been brought to account in the books of the Service Station. Neither Rs. 1,000 nor Rs. 192 have been entered in any of these books. It is a further circumstance against the story of the witness. It is the case of the witness that a stamped receipt for Rs. 1,000 was given originally. That was subsequently taken back and was torn away as the manager told him that it was not necessary. This conduct also is rather extraordinary. The witness admits that there is nothing in their books to show the receipt of Rs. 1,000. Thus it is plain that the testimony of this witness does not find place in the books of the service station—except in the bill book, the amount, his testimony is selfcontradictory. Exs. P. 711 and P. 712, which do not find place in the books of the service station—except in the bill book, the doubtful nature of the entries whereof has been already set out cannot but be a mere suspect. There was no necessity for the agents of the respondent to go there on the 25th and take petrol on credit from the 26th when, as a matter of fact, they were taking petrol on cash basis from before. It is not also clear who took the petrol. Most of the vehicles for which the petrol is said to have been given, cannot be connected with the respondent at all. In these circumstances, it is manifest that the petitioner has failed to establish the Exs. P. 711 and P. 712 were obtained by the respondent and they were enclosed to his return of election expenses and that the transaction contained therein is true and that the respondent incurred an expenditure of Rs. 1,92 on that basis. As already stated, the very contract alleged to have been entered into does not bear mention in any of the books of the service station, nor the amount paid on two occasions finds place in those accounts. The transactions entered into, which according to the bill books, must be cash transactions in the absence of any word 'credit' thereon are not entered in Ex. P. 716. In these circumstances, the theory of the petitioner must be rejected. As already noticed, the petitioner has admitted only three specific instances of purchase of petrol on cash basis. There is no reason to disbelieve him. The admitted quantity of petrol alone must be accepted in relation to this service station.

The only other petrol bunk with which we are concerned is ESSO Standard Petrol Bunk, Sompeta, Kanchili. The proprietors are Malla Satyanarayana and Brothers. The case of the petitioner in his amended petition is that whereas the respondent had incurred an expenditure is a sum of Rs. 6,000 on account of purchase of petrol from this bunk, he has shown in the return only a sum of Rs. 607-94 paise. The respondent in his further written statement averred that an amount of Rs. 696-68 paise alone as shown by the respondent in his return is the correct figure representing the purchase of petrol and other oil's from Esso Standard Petrol Bunk, Kanchili, and not Rs. 6,000 as alleged by the petitioner.

In order to prove his assertion, the petitioner has examined P.Ws. 1 and 23. P.W. 1 is Malla Subba Rao who is the brother of Malla Satyanarayana and one of the proprietors and partners of the firm. He produced bill books of the petrol bunk and also the ledger for the year 1967-68. The bill books are as sales whether cash or on credit of petrol, high spirit diesel oil, spare parts, acid and distilled water. According to him Bendalam Ramamurthi came and requested him personally to issue petrol to any one who would come and ask for the same in his name. The witness acceded to his request and instructed Vittal Rao, his gumastha to issue petrol etc. Accordingly the katha was opened and the petrol and diesel oil etc., were being issued from time to time. Ex. P. 1 is the Katha and it is from 1st April, 1967. In the bill books, maintained by the firm the date, the vehicle number, the quantity purchased and the amount are entered and the signature of the persons who take the petrol are also taken. If the Kathadar himself takes the petrol it is said that his signature would not be taken. If on the other hand he sends any person, his signature would be taken. The witness deposes with reference to his bill books to various transaction which took place during the period. These relevant entries in the bill books are marked Ex. P. 2

to P. 193. They show that petrol etc., was issued during the period 1st April, 1967 to 29th April, 1967 to as many as 34 vehicles and the total amount representing the value of petrol, diesel oil etc., supplied to these vehicles during the period, was about Rs. 7,000. Bendalam Ramamurthi is the Secretary of the District Swatantra Party. According to the witness he worked for the respondent in the bye-election. It is the case of P.W. 1 and P.W. 23 that Ramamurthy made payments towards these purchases from time to time. He paid sums of Rs. 500, Rs. 500, Rs. 1,000 and Rs. 4,084 (in all Rs. 6,084) on 14th April, 1967, 16th April, 1967, 20th April, 1967 and 30th April, 1967 respectively in full satisfaction of the amount due in his khata. There were some cash transactions besides. The details of the vehicles to which petrol, diesel oil and other lubricants were supplied on credit during the period and the bills which evidence these transactions and are duly marked are as below :—

Exhibits

Cars	Exhibits
APF. 2186	P. 2(a), 12, 15, 20, 34, 42, 49, 50, 54, 63, 105, 114, 126, 151, 171, 181, 191.
APK. 3518	P. 3, 817, 44, 187.
APY. 1438	P. 4, 7, 9, 14, 36, 93, 94.
F/R.	P. 5, 18, 21, 27, 31, 39, 41, 47, 51, 57, 71, 84, 88, 185, 186, 188, 190, 193.
APK. 9486	P. 6, 11, 16, 19, 24, 29, 32, 46, 76, 81, 89, 107, 126, 153, 163, 175, 183.
APC. 1620	P. 10, 13.
APK. 2911	P. 23, 65, 73, 103, 192.
MRA. 4024	P. 25.
APV. 7719	P. 26, 30, 82, 90, 110, 117, 120, 146, 166, 184.
APQ. 598	P. 28, 67, 55, 74, 77, 80, 87, 88, 99, 104, 129, 131.
APK. 7911	P. 33, 37, 45, 58, 59, 115, 147, 154, 171.
APT. 8347	P. 35, 40, 108, 134.
APG. 4329	P. 38, 53, 60, 70, 75, 97, 106, 137, 156, 162, 168, 119.
APC. 1473	P. 48, 52, 173.
APK. 9846	P. 61, 69, 102, 139, 144.
APL.	P. 64.
APQ. 1798	P. 66.
APU. 7414	P. 68, 166, 182.
APF. 2183	P. 78, 79, 86.
APP. 97	P. 83, 95, 101, 112, 121, 135, 141, 149, 165, 174.
MRV. 5242	P. 85.
MSR. 525	P. 91.
APS. 712	P. 100, 128, 130, 132.
APY. 672	P. 109, 119, 136.
ORS. 5270	P. 111, 118, 142, 167, 176, 181.
ORS. 5261	P. 112, 123, 125, 138, 140, 161, 164.
APK. 6444	P. 122.
ORS. 5308	P. 127, 150, 168, 169.
APK. 3875	P. 133.
APS. 642	P. 143, 172.
APP. 3166	P. 148.
APK. 5503	P. 152.
ORS. 5298	P. 155, 179.
APK. 3895	P. 170.

Thus there were 34 vehicles in all and 192 items of transaction.

Besides P.W. 1 who deposed to the bill books, P.W. 23, Vittal Rao has been examined in the case. He refers to the day book, daily sales register and stock register as well. The daily sales register is prepared on the basis of the bill book and the day book is prepared from the daily sales register. The day book contains the bill number, the date of purchase on cash or credit, the quantity purchased and the amount. The daily chittha contains cash and credit dealings. The

credit sales show the details of the persons and also to whom the petrol is sold. The witness deposes to the katha opened in the account books in the name of Bandalam Ramamurthi and says that after final payment of a sum of Rs. 4,084/- on 30th April 1967 there were no dues left. Admittedly petrol was purchased from this petrol bunk and vouchers were duly obtained and filed along with the return of election expenses submitted by the respondent. The witness identifies these vouchers as having been passed by him and also shows the carbon copies thereof in the bill books concerned. These vouchers are 25 in number. They are vouchers Nos. 60, 66, 68, 74, 75, 80, 88, 90, 91, 92, 93, 102, 103, 109, 110, 119, 124, 125, 126, 127, 128, 130, 131, 132 and 133, and are marked as Exs. P. 724 to 748 in the case. He proves 3 more Exs. P. 718 to 720 out of which only one (i.e.) Ex. P. 718 is a cash bill. It is bill No. 131 dated 11-4-67. P.W. 1 has deposed that out of the total bills Exs. P. 2 to P. 193, only Exs. P. 186 to P. 193 are cash bills. The rest i.e., Exs. P. 2 to P. 185 are all credit bills. Similarly out of the total bills deposed to by P.W. 23, Exs. P. 719 and P. 720, as already noticed, are the credit bills. This in short is the position as deposed to by P.W. 1 and P.W. 23. The total amount shown in the admitted vouchers is only Rs. 608.40 paise. Out of it one voucher Ex. P. 748 of the value of Rs. 29.44 paise is dated 29-4-1967 which is subsequent to the date of election. Barring these admitted vouchers which have been filed alongwith return of election expenses the respondent has disputed almost all other transactions alleged to be connected with him almost all I say, because he has admitted purchases to the extent of Rs. 694.68 paise.

It is the case of the respondent that Bandalam Ramamurthi while requesting the Petrol Bunk to issue petrol on credit had instructed them to issue to four named vehicles which were used for election purposes and that on production of chits alone. There were no instructions to the proprietors that petrol should be issued to all cars to whomsoever they may belong and which are brought to that pump with the oral representation that they were sent by Ramamurthi. So the respondent cannot be made responsible for the petrol that was supplied to other cars if any.

Admitted vouchers relate only to vehicles A.P.K. 9486 (Jeep), A.P.U. 7414 (Ambassador), APY. 7719 and A.P.G. 4329. Apart from these vouchers, the bill books show some further supplies of petrol etc., to these vary cars. These bills are Exs. P. 6, P. 11, P. 16 and P. 19, P. 24, P. 29, P. 32, P. 46, P. 61, P. 169, P. 76, P. 126 and P. 144 and they show that petrol was issued to A.P.K. 9486 of the value of a further sum of Rs. 264.96 Paise. The respondent disputes the truth of these transactions. Similarly Ex. P. 68 shows issue of petrol to APU, 7414 involving a sum of Rs. 38.05. This too is disputed by the respondent. Likewise the truth of Exs. P. 80, P. 82, P. 120 and P. 184 is challenged which relate to APY, 7719 covering a sum of Rs. 262.80 plus Rs. 77.42, Rs. 340.22 and finally the truth of Exs. P. 38, P. 53, P. 60, P. 70 and P. 75 relating to APC. 4329 and covering a sum of Rs. 28.98 plus Rs. 138.24 Paise disputed.

Thus the respondent does not admit any amount in excess of what he has stated in his written statement to have been paid for the purchase of petrol etc. on his behalf to Mala Satyanarayana and brothers. He does not admit the payment of Rs. 6,084/- or any sum in excess of Rs. 696.68.

It is to be seen how far the petitioner has established his case by the material on record. It is significant to note that though B. Ramamurthi has instructed the proprietor to issue petrol in his account, according to the case of P.W. No. 1 and P.W. 23, no letter was taken and no vehicles for which the petrol was to be supplied were got specified by him and no signatures of his at any time were sought to be taken in the account and further no receipts were ever issued from the receipt books. On the face of it it is difficult to believe that the authorisation would be so general or that the proprietor would be asked to supply petrol to all persons who demand petrol in the name of B. Ramamurthi. Surely supply must necessarily be for the vehicles with which the person giving instructions has some concern.

In a transaction based on credit system it is but natural to expect that the parties would take care that some chit is obtained from the party concerned on

his agent for the articles supplied. It is not unusual that coupons also are issued in duplicate and the petrol is supplied on the requisition made in the coupons. It is not easy, therefore, to accept the contention of Malla Subbarao P.W. 1, that the petrol was to be supplied to any person or to any car irrespective of the fact that the persons requiring the petrol produces some chit or some letter of authorisation of Ramamurthi or not. P.W. 1 is one of the Proprietors of the firm. The bill books or ledger are not in his handwriting. Not a single bill has been written by him. According to him his servant used to issue petrol. His brother's son Mohana Rao and also his gumasta used to write accounts. He does not know the various persons who are said to have taken petrol on behalf of Ramamurthi. It may be seen that as many as about 42 persons made their signatures. The witness does not know all of them. He says he knows only 5 or 6 of them. He refers to V. Nilambaram, Ch. Padmanabham, D. Chitti Babu and K. Bangari, and say these persons had put their signatures, it does not appear that these persons had signed in his presence or that he is in a position to identify their signatures.

P.W. 23 Vithal Rao says that at the time when the talk took place, except himself and B. Ramamurthi, there was none present. His proprietor was not present at all. B. Ramamurthi did not give anything in writing. He did not give the list of cars or men who would come for petrol. It is obvious that this witness does not admit the presence of Malla Subba Rao, who claims to have been requested by B. Ramamurthi for the issue of petrol and who, thereafter, instructed Vithal Rao to open an account and issue petrol. Thus, as regards the initial talk itself, there is much difference between the two witnesses. The case of both P.W. 1 and P.W. 23 is that for petrol supplied each time, no chits were sent. As already noticed, it is difficult to believe that without any chits, petrol would be supplied merely on the statement of any person who comes there and says that he was sent by Ramamurthi. In point of fact, we find in possession of the firm certain chits sent by Ramamurthi, Latchanna and K. Bhima Rao. These are Exs. P-749, P-750, P-751, P-752 and P-753. Ex. P-749 is the chit sent by K. Bhima Rao, who is the Vice-President of the Sompeta panchayat. Ex. P-750 was also signed and sent by him. Ex. P-751 was sent by B. Ramamurthi himself; so also Ex. P-752. Ex. P-753 was signed and sent by Latchanna. The corresponding bill numbers of all these are 369, 361, 338, 330 and 104 respectively. If taking chits was not a rule why these chits should come into the possession of the petrol bunk is not easy to understand. These chits could not have remained in their possession if they were in relation to the bye-election for, admittedly, all the amounts due thereunder have been paid off. If the amounts are thus paid off, the chits would not be allowed to remain in the possession of the proprietor. B. Ramamurthi has stated that the chits that he sent, Exs. P-751 and P. 752, are connected with the vehicle which was used in connection with the marriage of his daughter which took place in the month of April. That his daughter's marriage took place in the month of April is admitted by P.W. 23 himself. The vehicle concerned therewith was vouched for by Ramamurthi that it did not relate to any of the vehicles used for the bye-election. They were vehicles borrowed from others for his exclusive use for the purpose of his daughter's marriage. This must appear to be true in view of the above facts. P.W. 23 has said that he did not know all the persons who came and took petrol and whose signatures were taken in bill-books. He knows some of them. He also says that if the others were given petrol, it was on account of telephonic message by Ramamurthi, Latchanna or Nilambaram or on the basis of chits brought by those persons. This makes it clear that unless the persons were well known or they brought chits or some authority to give them petrol, the petrol, would not be issued to them. If that were so it must be assumed that the contract to supply was on condition that certain named persons or other persons, who were specifically authorised, would be entitled to get petrol. Unless that condition was satisfied, no petrol would be issued. Both the witnesses have spoken of various persons who have signed the bills. Of these, P.W. 23 says he knows only a few. He knows Nilambaram who according to him lives in Sompeta and resides in Latchanna's house. The fact that Nilambaram resides in Latchanna's house is categorically denied by the respondent's witnesses. He also speaks of one Ch. Padmanabham. He is a resident of Sompeta. He says that he worked for the Swatantra party. His being an authorised agent is not admitted on behalf of the respondent. He speaks of Shelk Basha as the car driver of Ranga, of R. B. Swami, a driver of the Swatantra party jeep and of Balaram and Krishna the drivers of Latchanna besides R. Dhandosi who he says is a worker of the Swatantra party. He speaks of also Dall Bandu, resident of Mandasa and leader of the Swatantra party, and Chitti Babu a worker of the Swatantra Party. P. V. Ramana, as driver of the Swatantra party cars, P. Khagandham as Ramamurthi's sister's son, and V. Raja Rao as a lorry driver who drove the lorries of the Swatantra Party

during the time of the bye-election. He says Pandi Khagantham is B. Ramamurthi's sister's son because he calls him "Mama". He does not know whether B. Ramamurthi has any sister nor does he know Khagandham's mother. Thus his acquaintance even with those person who have signed the bills is not full and complete. The persons whose signatures are said to have been taken are many more. None of these persons has been examined. If according to P.W. 23 in cases where persons were not known or acquainted with him, petrol was issued on chits or telephonic message, it does not appear how he was content with the few chits he has spoken of. He says he did not receive any other chits. The statements of P.W. 1 and P.W. 23 in relation to the circumstances in which the khata was opened and petrol was being issued from time to time are not at all convincing. It is obvious that the transaction did not take place in the manner stated by them. When the petrol was being issued to a number of vehicles irrespective of the fact whether they were owned or connected with the respondent there must have been necessarily some chits to show authorisation. No such authorisation has been produced. The persons whose signature are alleged to have been taken have not been called to vouch for them. Of course the testimony of B. Ramamurthi (R.W. 24) also is not consistent in certain respects. Whereas he said in the beginning that he sent a letter to Malla Satyanarayana's petrol bunk requesting them to issue petrol for 3 cars and one jeep, in cross-examination he says that he did not send any letter but orally told him in the rice mill ten days prior to the date of poll and Vittal Rao was not present at the time. The vehicles for which he gave instructions to supply petrol were four in number. Of these one belongs to Rajagopala Rao Naidu; one to Mr. Ranga; the third vehicle was got by Latchanna and the fourth vehicle (jeep) belongs to the Swatantra Party. He says that whenever the drivers of these vehicles intimated him that they required petrol for the cars, he used to give them separate chits. Latchanna had asked him to give chits for supply of petrol. He denied that he ever instructed Malla Satyanarayana and Brothers to issue petrol to whosoever mentions his name. He also denied that he even on telephone asked them to give petrol to any person. Whatever supply of petrol was made he says it was on the basis of chits and these chits were returned at the time when the amount was paid. They were handed over to Latchanna and eventually they were torn away as there was no need to keep them. They were 25 to 30 in number. It is significant to note that P.W. 23 or P.W. 1 never showed Ramamurthi any account books. That is admitted by P.W. 23. The bill books would not show that were the various bills issued in his account. The liability is sought to be cast on the basis that in these bill books are found the signatures of the various persons who are alleged to be connected with B. Ramamurthi or the respondent. Nilambaram is said to have signed the bills Exs. P-4, P-5, P-6, P-23 and P-24. These signatures are not admitted on behalf of the respondent. R.W. 31 and the respondent's other witnesses deny that Nilambaram reside in Latchanna's house. Padmanabham is said to have signed the bills Exs. P-7, P-8, P-14, P-36, P-93 and P-94. This also has been denied on behalf of the respondent. Similarly Sheikh Basha the driver of Ranga is said to have signed Exs. P-8, P-13, P-38, P-44, P-53, P-56, P-57, P-60, P-75, P-106, P-109, P-137, P-139, P-156 and P-178. Ramaswami, alleged to be the driver of the Party jeep, is said to have signed Exs. P-12, P-13, P-20, P-34, P-42, P-54, P-88, P-105, P-117, P-124, P-177 and P-180. Likewise it is said Balaram, the car driver of Latchanna, had signed Exs. P-22, P-25, P-68, P-79, P-81, P-91, P-120 and P-182. Another driver Krishna is said to have signed Exs. P-26, P-90, P-110, P-117, P-144, P-146, P-156, P-169 and P-185. V. Raja Rao is alleged to be a lorry driver and it is said to have signed Exs. P-7, P-9, P-14, P-36, P-93 and P-94 and V. Lakshminarayana, Ex. P-71. P. V. Ramana is said to have signed Ex. P-78 and Dall Bandu, Ex. P-63. D. Chittu Babu is said to have signed Exs. P-70, P-82, P-83, P-97, P-116 and P-150. There are several other persons who are said to have signed the bills. The bills contain only the initials, such as, B.E., B.Sc., A.K.S., K. P. Rao, P. Das etc. All these signatures have not been duly proved by the said persons nor their connection with the respondent has been established except that some of them were the drivers of the respondent and Latchanna. In the absence of any proof in this behalf we have to depend upon some of the vouchers given by the petrol bunk have been admitted. In fact, they have been submitted along with the return. It would be seen that these vouchers bear the signatures of Balaram, U. Krishna, S. K. Basha and D. Chittu Babu. Balaram and Krishna were admittedly the drivers of Latchanna. Having regard to the admitted vouchers, it can be safely assumed that the persons, whose signatures were put on those vouchers, were the persons who were authorised to take petrol for the cars that they took to the petrol bunk. Judged thus, if we go through the entire bill-book, it would be clear that the petrol was taken by these people even prior to Ex. P-81. Whether was taken from the stage of Ex. P-81, dated 17th April, 1967, is entered in the bill books in relation to these persons and but for

one or two additional items it tallies with vouchers which are admitted. Prior to that, however, some items signed by the above persons are to be seen in the bill books. They are as below:—

Bill No.	Exhibit Mak	Amount	Person who took petrol et c.	No. of vehicle
1	2	3	4	5
		Rs. P.		
33	P-13	19.32	S. K. Basha	A.P.V. (No. not noted).
39	P-16	11.04	B. S.	A.P.K. 9486
59	P-22	9.20	Balaram,	Not noted.
66	P-24	23.00	B. S.	A.P.K. 9486
69	P-25	36.80	Balaram,	M.R.A. 4024*
93	P-29	17.48	B. S.	A. P.K. 9486
122	P-46	23.24	B. S.	A.P.U. 9846**
66	P-56	14.40	S. K. Basha	(Not noted).
69	P-57	18.00	S. K. Basha	(Not noted).
166	P-61	17.48	B. S.	A.P.K. 9486
167	P-62	26.00	Krishna,	A.P.Y. 7719
186	P-68	38.55	Balaram,	A.P.U. 7414
187	P-69	18.40	B.S.	A.P.K. 9846**
				(No. wrongly noted).
189	P-70	23.92	D. Chittibabu,	A.P.G. 4329
214	P-79	45.10	Balaram,	A.P.G. 2183*
218	P-82	38.30	Chitti Babu & Krishna	A.P.Y. 7719
219	P-83	36.60	D. Chittibabu	A.P.P. 97*
240	P-91	27.60	Balaram	M.S.R. 525

*This is not one of the admitted cars.

**No. of car wrongly noted. Correct number is A.P.K. 9486.

Thus having regard to the fact that the persons named above had admittedly taken petrol for the vehicles on behalf of B. Ramamurti the liability for their signatures found on all the bills concerned prior to Ex. P-81 also has to be imposed upon B. Ramamurti. It should be taken that all this petrol and lubricants were purchased on his behalf by the said drivers and the persons concerned. As regards others, whose signatures have not been duly proved, and whose connections with B. Ramamurti have not been established the entries connected with them can have no effect as against the respondent. B. Ramamurti admittedly, according to the statement of Latchanna, was entrusted with the work relating to petrol. He failed to maintain separate regular accounts for the petrol as he depended entirely on chits which according to him were 25 or 30. He of course says that he maintained a general account. He says he had shown it to Latchanna. That is not available now as it is said, after the vouchers were given, it was torn away. Thus the only material that remains now is the account in the books. So far as bill books are concerned, in as much as all the admitted vouchers are from the same books, it can be presumed that they were duly prepared in the regular course of business. Of course there are certain mistakes or defects found therein. For example, in Ex. P-6, the vehicle number is corrected. It is not clear even now what exactly the original number was and the subsequent number is. So also in bill No. 33 (Ex. P-13) no number is mentioned. In bill No. 36 dated 4-4-67 the vehicle number is not written. There are similarly other mistakes which create doubt and difficulty in establishing the identity of the vehicle itself. The bill books, as I have already said, cannot establish the fact that they relate to B. Ramamurti. It is only the Khata that can show the total purchases during the period in his account. But these account books, such as, ledger, cash book, etc., are not free from doubt. While the Khata was started in B. Ramamurthy's name at page 101, Palasapuram obviously is a later insertion after erasing something which was there before. It is marked Ex. R-2. It is said that there are also other persons bearing the name of B. Ramamurti. The subsequent addition of Palasapuram therefore assumes significance. Ex. R-2 is

not the only place where Palasapuram has been so substituted. In various places in the cash book and day book also the word Palasapuram has been added. It is evidently a later addition. The marked difference in the ink necessarily arrests one's attention. In the day book this was added at pages 1, 2, 5, 8, 9, 11, 13, 14, 16, 18, 20, 22, 23, 25, 27, 29, 30, 31, 32, 34, 37, 38, 39, 41, 44, 46; 47; 49; 350; 351 and 355. In the cash book it was done so at pages 1, 5, 8 and some other pages upto page 55. The addition of Palasapuram was made, either by substitution or otherwise. In the daily sales book one would search in vain for the word Palasapuram with the name of B. Ramamurti. It is important to note that the original entries are made there. From the daily sales book, the day book and other books are prepared. The necessary inference that may be drawn in relation to the word Palasapuram as appearing in those books is that it must have been added on the 29th or 30th at the close of the month. These account books, are therefore of suspicious nature, at any rate, so far as B. Ramamurti's account is concerned. Admittedly these account books were never shown to B. Ramamurti on any occasion as is admitted by P. W. 23. In judging the suspicious character of the entries or books referred to above, we have to bear in mind also the fact that the proprietors of this firm, Malla Satyanarayana and Brothers, are active congress workers and they are very much attached to the petitioner. In fact, Latchanna has said that the proprietor of this bunk and also of the other bunks are his political enemies. Learned counsel for the respondent invited my attention to the fact that the petitioner in the beginning had issued an appeal to the public of Srikakulam immediately after his defeat in the general elections that he would not think of any political activity. That appeal is Ex. R-34. The petitioner said therein that he would be away from politics in the future and appealed to the public to vote for the Congress in the bye-election. When he was chosen to be a candidate for the Congress, he issued another appeal, Ex. R-35 dated 27-3-1967. These appeals made on behalf of the petitioner are relied on to show his sense of frustration and defeatism. It is said the same sense of defeatism was agitating his mind and it is on that basis that he asked Sana Virabhadra Rao, P.W. 31, together some information or evidence against the respondent. P.W. 31 says that he had prepared lists and gathered information even before the election was over. The idea behind these efforts was, it is argued, that the petitioner was trying to provide some evidence against the respondent with the help of persons who could oblige him. It is further stated that the proprietors of the various bunks were closely connected with the petitioner and Sana Virabhadra Rao. In this background it is argued that the suspicious character of the entries in the ledger and cash books etc., to connect the various transactions with B. Ramamurthi must assume importance. It is not known why these account books were never shown to B. Ramamurthi and why his signature was not attempted to be taken. It is not possible in these circumstances to place much reliance on these books. It is surprising that they were not shown even at the time the payment was made. It is further of importance that even the receipts that were issued were not given from the receipt books which must contain printed forms so that evidence with regard to these payments may be conclusive. In these circumstances, reliance on the entries in the said account books which show the name of B. Ramamurthy is not of much avail. The evidence adduced in relation to the payment also is not satisfactory at all. Apart from P.W. 23, P.W. 26 had deposed about this payment. But the statements of both do not tally with each other. P.W. 26, says that three days after the election, Latchanna paid Rs. 4,000/- to the bunk through Ramamurthi that he and Ramamurthi went there and paid the amount. Neither the extent of the amount nor the manner in which it was paid tallies with the deposition of P.W. 23. In this state of affairs, the case rests entirely on the bill books alone. In the absence of proof that the cars which are alleged to have been given petrol were in any manner connected with B. Ramamurthi or the respondent or the person who took petrol were the persons authorised by B. Ramamurthi, it is not possible to attach any liability for all the entries in the bill books, except to the extent, already stated. The total extent thus comes to Rs. 696.68 + Rs. 444.45 = 1141.13 Ps. No doubt apart from the four vehicles or the stray instance of two other vehicles the liability is sought to be attached in relation to other cars also. It is said that A. P. T. 8347 of Bhaskarao which has been referred to in Ex. P-753 was used for election purposes. But Latchanna categorically stated that A.P.T. 8347, which is entered in Ex. P-753 is not in his handwriting and that he did not send that car for petrol. He had sent his own car and the petrol was obtained for his own car. The petrol was not purchased for election purposes but for the use of his wife who was going to Visakhapatnam. It was further pointed out that A.P.Y. 1438 was mentioned in the election return of Latchanna in the previous general election must also be taken to have been used for bye-election purpose and an expenditure of Rs. 243.45 P. incurred on the purchase of petrol from various bunks as per the bill books for that car

must be taken into account. It is also said that this car stands in his name as per Ex. P-851. Similarly it is said that A.P.G. 5174 referred to in Ex. 793(Y) in the voucher filed along with the return of election expenses to show the expenses of the mike which was taken in the car must be regarded as the car available for use in election. The ownership of this car is not ascertained. As the mike was taken in that car it is said that it was connected with the election and all the petrol taken with regard to this car purporting to be issued from various petrol bunks in a sum of Rs. 326.29 P. must be added. This argument fails to take into account that Ex. P-793(v) was issued by Durga Coffee Works and when they included the rent for the mike they took into account also the car in which the mike was sent. So then by reason of its reference in Ex. P-793(Y) the petrol expenses cannot be attached to the respondent.

Similarly it is said that APU 3082 belongs to Simma Jagannadham it must be deemed to have been used for election purposes and petrol worth Rs. 264-35 purchased from various bunks in relation to this car by whomsoever it must be brought to account. Relying on Ex. P-851 which is a letter from the office of the Secretary to the Regional Transport Authority sent in response to the petitioner's letter for giving the particulars required by him in connection with the ownership of the seven cars, A.P.Y. 7719, APU, 3082, APY. 1438, APT. 8347, APF. 2183 APF. 2186 and APU 7414, it is urged that these vehicles which stood in the name of P. Balaram, Mohamed Raof, Goutu Latchanna, G. Bhaskara Rao, Shah Ghose, Secretary, Swatantra Party, Ranga Bhavan, and Rajagopala Rao Naidu respectively were used for election purpose and whatever petrol purchased for them by whomsoever it must be brought to account. This letter has not been duly proved by the person who sent it nor the contents thereof have been proved by any record duly maintained in the course of official business. Reliance on this cannot be any avail.

Similarly after the evidence of both the parties was closed, the petitioner sought to file a similar document relating to the vehicles registered at Guntur, Visakhapatnam, Kakinada (East Godavari District), Srikakulam and Nellore in the names of different persons of various places. But there was no occasion for these documents being admitted in evidence at that stage. Nor could these documents by themselves be proof of the truth of their contents. Even otherwise, it was not stated that these vehicles are owned by the respondent or they are connected with him. The ownership and the procurement of the vehicles should all be proved by clear and cogent evidence. It is only then that there can be occasion to assume that these vehicles were used for the election purposes.

Thus it is clear that the petitioner has not established his case that vehicles other than admitted were used for election purposes. Of course, APG-2183 and APP. 97 were taken by Balaram and Chitti Babu once to Kanchali petrol bunk. To that limited extent they may be held to have been used for the errand of the respondent. Calculating thus, the total amount in relation to the petrol so far as Kanchali is concerned would come to Rs. 1141-13 P.

This takes up to the end of the petrol account. As may be noticed except for the two bunks the evidence adduced from all other bunks is of cash bills. The cash bills, unless they are connected with the respondent by reason of his agents having purchased or supply of petrol having been made to the cars connected with him, they cannot cast liability on him. As regards the credit account, I have already noticed that so far as Vijaya Auto Service is concerned, the credit account which started from 26-4-1967 is not true or dependable. With regard to the bunk of Malla Satyanarayana and brothers at Kanchali, I have discussed in detail why the bill books alone should be taken into consideration and only to the extent of the transactions signed by the persons admitted to be the agents of B. Ramamurthi in view of the vouchers filed with the return of election expenses. In this way the total expenses of petrol incurred by the respondent comes to Rs. 205.95 + 49.84 + 78.90 + 24.00 + 21.39 + Rs. 1141.13P. = 1521.21:

Now we turn to the other alleged items which are said to have been accounted for. We may notice again the averments in the petition. It is stated in the petition that during the period of election large sums of money by way of Bank drafts, telegram transfers, cheques, money orders and telegram money orders.

through the medium of the Andhra Bank and the State Bank of India at Srikakulam and Sompeta, were received by the respondent, his election agent Gouta Latchanna and his other agents Kavuri Venkaiah and Simma Jagannadham.

A sum of Rs. 43,000/- was withdrawn from the Andhra Bank by the respondent and his election agent on 24-4-1967, two days before the polling day, and this amount was obviously spent for purposes of the election. What were the various purposes for which this amount was spent are not alleged in the petition.

It was further alleged that sums of more than Rs. 3,00,000/- were withdrawn by the respondent, his election agent and other agents including Kavuri Venkaiah, Simma Jagannadham, and Smt. Yesoda Devi, wife of G. Latchanna, from the Andhra Bank, Srikakulam, State Bank, Srikakulam and State Bank, Sompeta, in the month preceding the date of the election. In relation to these amounts also it is said that they were spent for the election. What were the various amounts respectively withdrawn and on what items they were spent, it is not made clear.

Apart from this it was alleged that a number of lorries from outside and within the district were engaged in the last week of the election for propaganda purposes and expenditure on diesel oil, drivers and cleaners in respect of these vehicles was incurred but has not been included in the account. The numbers of these lorries and further details are not given nor the extent of the expenditure, either exactly or approximately has been stated.

It was also alleged that though an amount of Rs. 2,081/- was shown as the expenditure incurred for printing posters, etc., no expenditure was shown for fixing and exhibiting them at different places. What was the extent of the amount also is not specified. In this connection it was also alleged that the amounts paid to the Padmanabha Printing Press, Vijayawada and Sarada Printing Press, Rajam, were not included.

It was also pointed out that the expenses relating to cycle rickshaws and jutkas were not also shown.

An amount of Rs. 4,000/-, representing the boarding expenses of the workers in the election, which was paid by the election agent and Venkaiah to Sri Venkateswara Lodging and Boarding, Srikakulam, was also suppressed.

The wages of the workers, 1,000 in number, for about three weeks, and also of 1,500 polling agents employed on the day of poll, are not shown in the account.

Likewise an amount of Rs. 500/- incurred for the purchase of voters' lists for the seven Assembly constituencies was not also included.

These are the various instances of alleged suppression or under estimation of the expenditure incurred or authorised by the respondent and his election agent as are set out in paras 6(a), (c), (d) to (g) of the Petition.

In the evidence, however, these instances of suppression and under estimation have multiplied. Could the petitioner seek to prove any instances for which no foundation was laid in the petition? It has been held by the Allahabad High Court in *Ram Abhilak Tewari v. Election Tribunal Gonda A.I.R. 1958 All. 633=14 E.L.R. 375* the petitioner cannot rely on the evidence tendered by him in respect of the items of expenditure for which there was no foundation in the petition. The principle is but salutary and I respectfully agree with it for unless the respondent is put on notice as to the case he has to meet he cannot be taken by surprise by way of introducing some material in support of that case which was not pleaded.

The Madras High Court, in *S. Kandaswami v. S. B. Adityan* 21 E.L.R. 435, where Section 106 was set up for throwing the burden on the respondent to prove the facts which were in his special knowledge and an adverse inference was sought to be drawn, held there that there was no burden on the respondent to prove anything as contended for and no adverse inference could be drawn against him if he does not prove such facts. Exceeding the maximum prescribed by the rules framed under the Representation of the People Act being a corrupt practice as defined by Section 123(6) and being a ground for setting aside the election under Section 100 the burden is heavily on the person who alleged the corrupt practice to prove it; the petitioner cannot simply prove certain suspicious circumstances and then call upon the person charged to explain those circumstances on the ground that those facts about which suspicion has been raised are within the special

knowledge of the accused person. It was further held that though it may be difficult for the petitioner who accuses the successful candidate of corrupt practices to prove positively what motor vehicles had actually been used for the purposes of the election, and what expenses were actually incurred for petrol in connection therewith or the applications which the respondent had made for permits or licences for the use of mikes and so forth, the impossibility of proof of the actual election expenses would not dispense with the need for actual proof of the allegations. No question of any rebuttal of the suspicious circumstances raised by the petitioner against the respondent would arise in such a case and the burden is heavily upon the petitioner to bring home the guilt to the respondent by cogent, positive, specific and definite evidence, if he is to succeed in establishing the corrupt practice alleged against the respondent which would entail his election being declared void.

The general allegation that more than Rs. 3,00,000/- was received by the respondent, his election agent and other agents, and they must be deemed to have spent that amount for purposes of the election, is not sufficient. It is not also sufficient to merely establish that sums of huge magnitude have been received by the respondent or his agent or election agent. It is necessary to establish that this money was received for election expenses and that it has been spent for the said purpose.

It is no doubt stated that a NIDHI (fund) was opened for the bye-election and the amounts received in that Nidhi itself amounted to lakhs of rupees and they were all used for purposes of the election, but there is no definite evidence with regard to this.

What is admitted by the respondent is that friends and sympathisers of Ranga used to send amounts in his name and those amounts were being received by him or by Kavuri Venkaiah under his authority. These amounts have nothing to do with the amounts which were sent and received in the name of Goutu Latchanna for they were contributions to the Party fund to enable the Party to clear off the debts that it had contracted during the general elections. Whatever amounts were sent in this behalf in the name of Goutu Latchanna were received either by him or by his wife or by Kavuri Venkaiah under his authority. Kavuri Venkaiah, when he received the same, sent them to Latchanna. The amounts that Kavuri Venkaiah received in the name of Ranga alone were retained by him as Ranga's amounts.

Both the amounts had their separate entity throughout and were not allowed to mix with one another. Ranga's account of receipts and expenditure was maintained by Kavuri Venkaiah, an old loyal friend of Ranga. He was brought by N. G. Ranga to Srikakulam on 21-3-1967 from his native place. The avowed purpose was that he should keep Ranga's money with him and make it available for Latchanna or any one authorised by him (Latchanna). He, as R.W. 28, has deposed that Ranga had given him Rs. 3,500/- on 22-3-1967. He put the same in the Andhra Bank at Srikakulam on 23-3-1967 and withdrew on the same day a sum of Rs. 500/- and kept with himself. Ranga gave him also a cheque of Rs. 5,000/- on the Bank of Nudubrole. Thereafter he (R.W. 28) received a draft for Rs. 6,000/- from Karamchedu, on the Andhra Bank at Srikakulam. A further draft for a sum of Rs. 1,000/- addressed to the Andhra Bank was received from Masulipatnam. They are all entered in his savings bank pass-book, Ex. R-78. Apart from these moneys, he received under the authority of N. G. Ranga Money orders sent in the name of Ranga and also some further telegraphic money orders later. According to the witness the moneys thus received amounted to Rs. 4,200/- and odd. The amounts in the Bank were withdrawn by him on various dates and were expended for purposes of election. The total expenditure, according to him, was Rs. 15,800/- and odd. As there was a total sum of more than Rs. 19,000/- received as above, he returned the cash with him to Ranga on 30-4-1967. A sum of Rs. 1,039-65 P. was still to his credit in the savings bank account. He could not withdraw that sum on 30-4-1967 as the time for withdrawal was over. He says he got that amount transferred to Latchanna's account on 7-5-1967 by giving him an authorisation letter for he had borrowed that amount from Latchanna to pay to Ranga. He avers that the bye-election expenses were met only with the help of the amounts that were with him. No other amount was spent for the said purpose. Nor any amount of Latchanna was used for the purpose. He describes the manner in which the amounts kept with him were made available for election expenses. On 30-3-1967 at Srikakulam there was a Party meeting. After that meeting, Latchanna gave oral instructions with regard to the election expenses. He nominated eight persons, one for each of the seven constituencies, and one for Srikakulam town, as follows;

1. Krishnamurti for Srikakulam Constituency;
2. Veeranna for Narasannapeta Constituency;

3. Narayanaswami for Tekkali Constituency;
4. Narayana Deo for Harishchandrapuram Constituency;
5. Sarma for Itchapuram Constituency;
6. Ramamurthy for Sompeta Constituency;
7. Chalapati Rao for Nagarikatakam Constituency; and
8. Surya Rao for Srikakulam town.

According to the instructions given by Latchanna, Ramamurti was paid Rs. 500/- in two instalments, Sarma was also paid Rs. 500/- in instalments. Likewise Surya Rao was paid Rs. 500/- or Rs. 600/- Krishnamurti about Rs. 500/-; Dumpa Veeranna was paid about Rs. 450/- or Rs. 500/-; Narayan Deo Rs. 550/-; Narayanaswami was paid Rs. 500/- and odd. Chalapati Rao was paid about Rs. 500/- and odd. He took receipts for these sums after payment to them in full. Then again after they gave him vouchers, he returned those receipts. One Dharma Rao, clerk, was given by Latchanna to assist him. Appa Rao was also to help him. Surya Rao was entrusted with the work of flags, badges, etc. and Chalapati Rao with the work of printing. The witness maintained an account of the moneys received and paid by him. He noted them in his diary Ex. R-79. He got an account prepared by Dharma Rao and gave it to Latchanna along with the vouchers. The diary, however, he kept with himself. He also says that he used to pay amounts to the drivers for petrol and they used to bring receipts and give the same to him. He did not, however, maintain the petrol account in his book. He gave amounts to the drivers and obtained receipts.

The respondent, N. G. Ranga, as R.W. 19, has vouched for the fact that he kept his money with Kavuri Venkaiah for purposes of election. The amount that he spent for the election was partly his own and partly received by way of donations. The money that he gave was a sum of Rs. 3,500/- in cash and the proceeds of a cheque of Rs. 5,000/-. Rs. 3,500/- was with his wife and she gave that amount to him. He gave the same to Kavuri Venkaiah. Rs. 5,000/- was a donation of his family people. He says that no election fund was opened by him for purposes of the election nor was such fund opened by Latchanna. Apart from these two sums, he says that a donation of Rs. 6,000/- came in the name of Kavuri Venkaiah and some money orders addressed to Ranga were received by Venkaiah in his absence. Those amounts were sent by friends interested in him for they felt that he might need their assistance. All these amounts were kept with Venkaiah so that they might be made available to the election agent or any person authorised by him. The total amount that was received by way of donations or contributions from others was Rs. 18,000/- or Rs. 19,000/-. The entire amount was not spent for the election, for Venkaiah, who had opened a Bank account and kept the amounts in the account, returned the balance to the respondent. The respondent says that the expenses of the election were met out of the amounts that he had referred to above and not from the moneys that belonged to Latchanna or the Swatantra Party or any other person. After he returned to Srikakulam, he opened a bank account of his own with the Andhra Bank at Srikakulam. Ex. P-772 is that account. The account was started on 10-5-1967 with Rs. 10,000/-. This amount consisted of two cheques received in the name of Mr. Sayaji Rao, retired Chief Engineer of Andhra Pradesh and now a Party worker. It was intended for the purpose of starting Star Publications Limited to publish a daily paper.

The testimony of both these witnesses in relation to the amounts received is fully corroborated by the bank account standing in the name of Kavuri Venkaiah. Latchanna also deposed that Kavuri Venkaiah had the amount with him out of which the election expenses were met and that no other amounts from any other quarter were used for election purposes. He is the President of the State Swatantra Party. In the general elections the party had spent a lot incurring debts. In order to pay off those debts the Party requested for donations from members of the State Party and also the Central Party. There was an appeal to the press to make collection by way of donations and also a request was made to the Central Party to make some donations. In the months of March and April, 1967, some amounts were received in this way. The witness had an account with the State Bank, Srikakulam, and a joint account in the State Bank at Sompeta in the names of his wife and himself. He says whatever amounts were received in his name by way of cheques and drafts were put in the joint current account at Srikakulam. Not

a single pie out of this was used for the bye-election. These amounts were spent for discharging the debt contracted by the Party at the time of the general elections. Out of the amount that was left as balance after discharging debts, he paid Rs. 16,000/- for the purchase of a jeep from the Central Party. That is the story of Latchanna about the election expenses which were met purely with the help of the funds of N. G. Ranga alone. He has given further details which corroborate the statement of Kavuri Venkaiah. It was suggested to him that a "Nidhi" (fund for bye-election) was opened and large amounts were received and were utilised for bye-election. His attention was drawn to the Bahaunjana issue of 20th March 1967 where at page 4 the names of the contributors and the details of the amounts paid by them towards Sri Ranga's bye-election fund are mentioned. He denied all knowledge about it. Be it noted no such specific plea was raised in the petition. The paper also was produced only at the last stage when Latchanna was being cross-examined. He is the last witness on behalf of the respondent. The amount's shown at page 4 do not find place in any of the pass books of either Latchanna or Kavuri Venkaiah or in the joint account of Latchanna and his wife. Moreover they relate to a period prior to the date of notice calling for nominations. It is not proved as a matter of fact by any of the witnesses that in fact such a fund was opened and the moneys collected in that fund were made available to Ranga for his election purposes.

Having regard to the statements of these three witnesses, it is clear that whatever amounts were received by Latchanna in his name, they had nothing to do with the amounts that were entrusted to Kavuri Venkaiah, who got the said amounts either from Ranga direct or by way of drafts and money orders that were sent in his name or in the name of Ranga. It is true that the amounts received by Latchanna during the months of March and April ran into several lakhs. Ex. P. 770 is the extract from the current account of Goutu Latchanna and Yasoda Devi with the State Bank of India, Sompeta, from 1st March 1967 to 30th April 1967. The credit entries in the month of April will show a sum of Rs. 2,346.50 P. out of which two sums of Rs. 1,000/- and Rs. 1,000/- represented D.D. on Srikakulam and T. T. Kakinada. There are no credit entries in the month of March. Ex. P. 766 is a statement of drafts received in the name of Sri Goutu Latchanna from 31st March 1967 to 24th April 1967. Four items therein are of Government, and they are in a sum of Rs. 4,516/-. The remaining three items are from Gandhinagar, Bapatala, and Bapatla respectively, representing sums of Rs. 500/-, Rs. 914/- and Rs. 2,569/-. Ex. P. 767 is a statement of current deposit account of Sri Goutu Latchanna from 23rd March 1967 to 30th April 1967 with the Andhra Bank, at Srikakulam. It shows deposits of a total amount of Rs. 1,39,692.10 P. inclusive of the previous balance of Rs. 36.10 P. The withdrawals amounted to Rs. 1,34,520/-. The withdrawals on 5th April 1967, 11th April 1967 and 18th April 1967 are by means of self-cheques, Exs. P. 845/13, P. 845/12 and P. 845/14. Of these on Ex. P. 845/12 on the back of the cheque we find the signature of Kavuri Venkaiah besides the signature of Latchanna. It is for a sum of Rs. 12,000/-. A cheque for Rs. 10,000/- on 20th April 1967 was issued to Kavuri Venkaiah, and another cheque on 24th April 1967 for a sum of Rs. 13,000/- was also issued in his name. The other cheques are as follows:—

- Rs. 14,000/- to V. Polarao.
- Rs. 8,000/- to G. Panduranga Rao.
- Rs. 12,000/- to P. Sriramamurti.
- Rs. 11,000/- to V. Venkateswara Rao.
- Rs. 10,000/- to Nidubrolu Ayyaru.

These are marked as Exs. P. 845/5, P. 845/4, P. 845/14, P. 845/1 and P. 845 respectively.

Ex. 768 is the certified copy of the account of G. Latchanna with the Andhra Bank Ltd., Srikakulam from 1st March, 1967, to 30th April, 1967. The deposits made are Rs. 25,553.90 P., out of which Rs. 25,000/- were deposited on 11th April 1967 by cash.

Ex. P. 769 is the statement of T.Ts. received in the name of Sri Goutu Latchanna from various places from 23rd March 1967 to 26th April 1967. They are from Hyderabad, Gudlavada, Ramaraopet, Rajahmundry, Bombay, Arundelpet, Vijayawada, Guntur, Nizamiabad, Kovvur, Ramachandrapuram, Ongole and Repaue. The total of these T.Ts. received, comes to Rs. 1,17,500/-.

Ex. P. 711 is the certified copy of the account of G. Latchanna with the Andhra Bank Srikakulam, for the month of May, 1967, it shows withdrawal of a sum of Rs. 18,417/-.

Ex. P. 774 is the certified copy of the account of G. Latchanna with the Andhra Bank Limited, Srikakulam, from 26th April 1967 to 5th May 1967, wherein a withdrawal of Rs. 2,000/- was shown on account of a cheque received from the State Bank of India, Srikakulam.

Ex. P. 772 is the certified copy of the account of Sri N. G. Ranga with the Andhra Bank Limited, Srikakulam from 10th May, 1967 to 30th May, 1967. It shows deposits of Rs. 14,719.60 P. and a balance of Rs. 4,719.60 P.

Ex. P. 775 is the certified copy of the account of Sri Kavooru Venkayya with the Andhra Bank, Limited, Srikakulam, from 23rd March 1967 to 28th April 1967. It shows that out of the deposits of Rs. 16,009.85 P. Rs. 14,970/- were withdrawn during the period, and the balance was Rs. 1039.85 P. This amount was transferred to G. Latchanna's account on 12th May 1967.

This is the state of deposits and withdrawals in the accounts of G. Latchanna, N. G. Ranga and K. Venkalah. We are concerned with only the accounts up to 29th April 1967 and not with the subsequent transactions.

On being called upon Latchanna submitted his pass books of current and savings bank accounts, Exs. R. 82 and Rs. 83 respectively. It would appear from Ex. R. 82 as well that on 24th April 1967 a cheque in the name of K. Venkalah was drawn for Rs. 13,000/-, another cheque for Rs. 12,000/- in the name of P. Sriramamurti, and further cheques for Rs. 11,000/- in the name of V. V. Rao and for Rs. 10,000/- in the name of N. Ayyaru, in all cheques for Rs. 46,000/- were issued by Latchanna. It was the case of the petitioner that these amounts were obviously spent for election purposes. On being questioned Latchanna said that P. Sriramamurti, V. V. Rao and N. Ayyaru were creditors and therefore he issued cheques in their favour to discharge the Party debts due to them in the sums mentioned above. He also spoke that the cheque that was given to Venkaiah was to clear the debt of one of the creditors of the Swatantra Party. He deposed that Srinivasa Reddy and Jaggarao were two creditors left in the area. It was in connection with them that Kavuri Venkalah was given cheques. Kavuri Venkalah says that with the amount of Rs. 13,000/- he realised from the cheque, he paid off the debts of Srinivasa Reddy and Jaggarao. There is nothing to disbelieve the testimony of these two witnesses when there is no evidence contra. It was also put to Latchanna that he had given a blank cheque for a sum of Rs. 20,000/- on 22nd April 1967 wherein the name was subsequently written as Nidubrolu Ayyaru. He says that he gave the cheque to Venkalah asking him to give the cheque as and when Ayyaru comes after writing his name. As already noticed, Latchanna deposed that Ayyaru was a creditor and his debt was liquidated by means of this cheque. In relation to V. Venkateswara Rao's cheque it was put to him that it was only a bearer cheque and when the amount was being withdrawn K. Venkaiah had signed as a witness. It is suggested thereby that K. Venkalah was the person who actually received the amount. That cannot be the inference to be drawn when the signature of K. Venkaiah is merely as a witness in regard to payment made to Venkateswara Rao who probably was not known to the Bank. With regard to the cheque given to B. Panduranga Rao also, question was put to Latchanna who stated that it was given for discharging the Party debt. He further stated that he took back the promissory note after due endorsement thereon. It is clear from the above information elicited that nothing of significance turns upon it in support of the story of the petitioner. There can be no presumption that cheques thus given were for election purposes. The connection of the said payees with the bye-election has not been established by showing that they paid any of the expenses of the election out of the proceeds of the cheques or were interested in paying any election expenses in any manner. If Latchanna as the President of the Andhra Pradesh Swatantra Party, had appealed for funds to clear off the debts contracted by the Party in the earlier election and funds were thus forthcoming and the debts were being liquidated with the help thereof, his payments merely by reason of the fact that he is election agent of the respondent cannot raise a presumption that they were for bye-election purposes. The onus to prove that they were bye-election expenses or used for bye-election purposes must necessarily rest on the petitioner. If it is the case of the petitioner that they were not true creditors, the petitioner ought to have furnished some evidence to prove the same. As it is, there is no reason to disbelieve the testimony of Kavuri Venkalah and Latchanna with regard to the cheques. Kavuri Venkalah has deposed about both the cheques and said for

what purpose they were given. Both the witnesses have deposed that these amounts are distinct and separate from the amounts expended for bye-election. When two witnesses have thus affirmatively stated in favour of the theory that the expenses for the bye-election were met out of the funds supplied by Ranga or the moneys received in his name and not with any other moneys whether belonging to Latchanna or the Swatantra Party or any other person and there is no reason to disbelieve them, in the absence of any evidence to the contrary, no adverse presumption can be raised merely by reason of the cheques being drawn by Latchanna in the name of Kavuri Venkaiah. Therefore, the theory that the Party funds, which were intended for clearing off the debts, were made available for purposes of the bye-election, as stated in Para 6(a) of the petition, cannot be accepted.

Now we come to para 6(c) of the petition. This refers to several lorries alleged to have been engaged by the respondent during the last week of the election for propaganda purpose. It is said that the expenditure on diesel oil, driver and cleaners in respect of those vehicles has not been included in the account. As already stated above, there is no positive evidence with regard to use of various alleged vehicles. The evidence sought to be adduced with reference to the bill-books of the various bunks is of no avail, because so far as cash bills are concerned, they do not show the names of the persons to whom those cars belonged. There is no satisfactory evidence that any of those vehicles was procured for purposes of the election by the respondent or his agent or any other person with his consent. There is not a iota of evidence in that behalf. Reliance placed on the credit account with Vijaya Auto Service Station, Srikakulam, and Esso Petrol Bunk, Kanchili (Sompeta), as already stated, is not of much consequence. The evidence in that behalf cannot be believed. The bill-books of Vijaya Auto Service Station do not show that they are credit transactions. The account books do not show the alleged credit transactions and the receipts alleged to have been issued have not been satisfactorily established. Even with regard to the account-books of Esso Petrol Bunk, Kanchili, it has already been shown that they conjure up serious misgivings so far as B. Ramamurti's account is concerned. The bill-books do not show the names of the owners and the signatures taken have not been proved. Thus it cannot be held that several cars, other than those admitted, and also lorries, etc., were used for election purposes or any expense other than the petrol and oil expense admitted and drivers expense was incurred. Of the admitted cars as regards A.P.Y. 7719, it is the case of Latchanna that it stands in the name of Balram. It was Latchanna's car, but was transferred in his name. This car, A.P.Y. 7719, was used both in the general election and bye-election, and Latchanna admittedly had issued two cheques, Exs. P. 845/7 and 845/8, for sums of Rs. 1,920/- and Rs. 1,000/- respectively, on 17th May, 1967, to him. It must be either towards his pay or the repairs effected by the Party, as the car was used by the Party. Of course, this was not brought to account to any extent, except that it can be said that Balram had given his voucher for his batta only. About the repairs, no amount is included. There is no voucher for his salary also, nor for the repairs. What is the extent of the repairs that may be apportioned, is not clear, for the car was used in both general and bye-elections. As the cheques for the amounts were issued by Latchanna on 9th May, 1967 and 12th May, 1967, and they were cashed on 12th May, 1967 and 17th May, 1967, *prima facie* there will be no presumption that they were paid towards the election expenses. But Latchanna's statement would show that these cheques were for salary and repairs, and for no other purposes. As the car was used both for general and bye-election, the date of repairs becomes material. The date of repairs is not ascertained. Now much part of the amount should be apportioned for the wear and tear during the bye-election cannot be correctly ascertained. One thing is certain that as the bye-election period from the date of nomination to the date of result was full one month, his salary should have been included, and it would be Rs. 100/-, and the balance represents the repairs. If half of it is to be apportioned towards bye-election it will be about Rs. 910/-. Thus the total amount would be Rs. 910/- plus Rs. 100/- Rs. 1,010/- in relation to Balram. But as I have stated above, it is not clear when exactly the repairs were effected. In connection with the Batta and salary for drivers, only three drivers have been shown in the Return. They are Balram, Krishna, and Sheikh Basha. When four vehicles were used, it is usual to expect that there will be four drivers. But it is said that they were regularly taken, and one was a spare driver, who used to drive any of two cars when required. The vouchers that are admitted do not show any other person as the driver. Of course, with regard to the entries that are not admitted, names of certain other drivers have been shown as belonging to

Swatantra Party. But that will be not of much assistance for us. It is also said that Sarathy was the driver who used to drive whenever necessary. But when it is not clear that he worked throughout the month his salary cannot be included. So, then, only these three drivers can be accepted as the driver employed by the party. So far as the car hire is concerned, the petitioner at the time of argument has proceeded on the assumption that the respondent has used all the cars that were mentioned in the bills of various petrol bunks. The procurement of cars cannot be a mere matter of presumption. It should be proved by positive evidence. As already noticed, there is no proof that any of the vehicles except the four admitted were used for the purpose of election. Of course, according to the statement of Latchanna, A.P. Y. 7719 belongs to Balram, as it was transferred in his name, and it was used for party purposes. It is represented that the car hire in relation to this car must be included in the Return, and it should be at the rate of Rs. 40/- per day. It does not appear from the evidence that it was given on hire and unless it is proved that it was given on hire, the hire cannot be included.

Para 6(d) of the petition contains an allegation that money expended on wall-posters in printing distributing and exhibiting them is far below the amount actually incurred, that the expenditure incurred for fixing and exhibiting them at different places was not shown in the return, and that the amounts paid to Padmanabha Printing Press, Vijayawada and Sarada Printing Press Rajam were suppressed.

It would appear from voucher No. 18 (attached to the return of election expenses) that 96,000 Swatantra flags and 8000 lithos of 20"×30" size with photo offset were printed for Sri Acharya Ranga by National Litho Printers. The total sum that was expended in that behalf was 2,081.52. Para 6(d) must be taken to have referred to the same when an item of Rs. 2,081/- was shown as the expenditure incurred for printing posters, etc. The allegation in Para 7(d), seems to be only this: that though such expenditure has been shown, no expenditure incurred for fixing and exhibiting the posters etc. was included in the return. The further allegation of course is that the amounts paid to Padmanabha Printing Press and Sarada Printing Press were not shown at all. It is not specifically mentioned in this para in what connection they were paid perhaps it may be about the pamphlet that were printed. It has been denied that any pamphlets were got printed from Sarada Printing Press, Rajam. As regards posters, R.W. 15 has said that they used wall posters. In addition they put flags in one or two places in each of the villages. They used door posters like Ex. P. 810, and 4 or 5 such door posters might have been pasted in each village. R.W. 21 has deposed that door posters like Exs. P. 810 and P. 826, were pasted to doors and wall-posters like Ex. P. 824 were also pasted. It may be noted here that Exs. P. 810 and P. 826 seem to have been printed by Sri Padmanabha, Vijayawada-2, and Ex. P. 824, seems to be of litho. R.W. 31 deposed that on Exs. P. 810 and P. 826 the name of the printing press is shown at the bottom as Sri Padmanabha Printing Press, Vijayawada. He is not in a position to say whether the pamphlets printed by Padmanabha Press were used or not in the election. Chalapati Rao was in charge of the printing. No question was put to him in this behalf. It was suggested to Latchanna that Ex. P. 845/9, cheque for a sum of Rs. 500/-, given to Venkateswara Reddi, Secretary of the Krishna District Swatantra Party was concerned with the advertisement expenses of Exs. P. 810 and P. 826, but he denied the same. It was a bearer cheque issued in the name of Venkateswara Reddi. The managing partner of Sri Padmanabha Printing Press Vijayawada stood guarantee for Venkateswara Reddi, who had made the signature on the back of the cheque, on 16th May, 1967. It is argued that this guarantee became necessary because the managing partner of Sri Padmanabha Printing Press had taken the money himself. Otherwise his attestation would have been sufficient if Venkateswara Reddi was not known to the Bank. From the manner in which the cheque was cashed, a point was made that this cheque was in fact given by Latchanna to Sri Padmanabha Printing Press Latchanna as already noticed has denied the same and said that Sri Padmanabha Printing Press had nothing to do with the amount. It must be noted that this cheque was of 15th May, 1967, long after the results of the election were announced. Unless there is positive evidence with regard to the fact that this amount was paid towards an item, the expense of which was incurred during the election, the theory of the petitioner cannot be accepted. It was possible for the petitioner to call the records of Sri Padmanabha Printing Press or examine the managing partner in support of his contention. It has not been done. So the amount of Rs. 500/- cannot be taken to be the charges of printing Exs. P. 810 and P. 826. Further it is not sufficient for the petitioner

to say that certain wall posters were pasted. It is also necessary to prove that the expense therefor, was incurred or authorised by the respondent. He has also to establish what that actual expense was. The extent of expenses for fixation and exhibition of posters cannot be a matter of surmise. There must be some evidence to reach the conclusion about the expenditure incurred on that account or the reasonable estimate thereof.

So far the lithos are concerned, I have already pointed out that there is a voucher for the same. No doubt the wall posters, Exs. P. 824 and P. 834 do not contain the name of the press but the voucher filed gives the description of the posters. The description given so far as the size is concerned tallies. But of the two only Ex. P. 834 contains the photo and not Ex. P. 824. The voucher filed shows the photo offset also. It is not proved that there were any other wall posters which were pasted. In these circumstances and in the absence of any evidence as to how many posters of Ex. P. 824 description were pasted and by whom and at whose instance and what is their approximate expense, this item, even if it be assumed that it is not covered by the voucher, cannot be included in the election expenses of the respondent. It should be noted that what was alleged was that only the fixation charges of the posters, etc., were not included in the expenses, and the expenditure thereon has been underestimated. But at the time of argument it was also urged that there were certain advertisements relating to the bye-election in the Bahujana and according to the paper Rs. 100/- per page are the normal charges. For five such pages an expense of Rs. 500/- must have been incurred. So it should be added. Bahujana, of course, is not connected with the Swatantra Party as such but there is nothing to prevent the paper to make a gratuitous advertisement. Unless it be concluded that some expense was incurred or authorised by the respondent, such expenses cannot be included in the election expenses.

Then there is paragraph 6(e) of the petition which refers to expenses in respect of cycle rickshaws and jutkas. It is not admitted that cycle rickshaws or jutkas were used for purposes of the election. There is no satisfactory evidence that cycle-rickshaws and jutkas were engaged for the election work. The statements of Majji Narasimharao and Sana Virabhadrarao are not convincing. If this fact was sought to be relied on, it should have been proved by clear evidence.

Para 6(f) deals with wages of 1,000 workers and their maintenance account. It is alleged that in this connection Rs. 4,000/- were paid by the election agent and Venkalah to Sri Venkateswara Lodging and Boarding, Srikakulam, and that this item was suppressed in the Return.

It is not disputed that several persons had worked for the Swatantra Party candidate. It is stated that according to the rules for the Swatantra Party membership, they have to work voluntarily. It was put to Latchanna whether there was any remuneration fixed for the workers. He said "No". The reason he showed was that payment of remuneration to party workers is against the very principles of the party. That does not however mean that bus charges or meal charges will be necessarily met by themselves. The workers may be canvassers, polling agents and counting agents. There may be persons engaged for affixing posters and putting buntings. Latchanna has stated that there were two or three polling agents for each polling booth. There are in all 350 such booths. In this way, the total number of polling agents may be between 1,100 and 1,650. Though most of the workers are voluntary workers, the expenses incurred by them by way of travel, etc., have necessarily to be borne by the respondent unless they were keen to bear themselves. Likewise persons who were engaged for affixing posters at various places have necessarily to be paid. In fact, vouchers Nos. 27, 40 and 41 show that for buntings and for affixing posters payments were made to such persons and some workers had been paid T.A. even for canvassing. Voucher No. 27 shows that three persons engaged for putting the buntings were paid Rs. 5/- put together per day. It works to about Rs. 1.66 P. per head. Voucher No. 40 shows that a sum of Rs. 15/- was paid. The number of workers however is not mentioned. Voucher No. 41 shows that two workers were paid in all Rs. 4/- for two days. R.W. 27 has admitted that when the workers travelled by bus, they incurred expenses for bus fare and meals. He says he paid Re. 1/- per person for some workers towards batta. There were two or three persons along with him. They toured from 1st to 22nd April, line that. Some times he went with three persons, and sometimes with five. After 22nd April, he sent workers about 20 to 30 per pay for canvassing, and he did not maintain any account with regard to the same. He did not take vouchers for the amounts spent by workers. He paid all the expenses out of the amount that was given to him and which is

accounted for in the return. R.W. 15 who is a paid organiser and was paid Rs. 75/- per month from 1965 to January, 1967, says that in the constituencies he might have spent about Rs. 150/- for himself which he did not claim. They were spent for bus fares meals, etc. He further says that he might have spent Rs. 200/- for workers. These were paid out of Rs. 500/- allotted by Latchanna to them. As regards the number of party workers he says that there were about 100 workers in the Assembly Constituency of Tekkali. He also stated that there may be 200 workers who attended the meeting on 30th March, 1967. What he refers to is the number of Swatantra Party workers and not the workers who were paid any money. However on this basis, it is said that all these workers might have been paid. As already noticed, there can be no question of remuneration. Only some amounts by way of their Batta, i.e. bus fares and meals must have been spent. The witnesses have deposed how they were met. Venkayya under the directions of Latchanna had paid as already shown certain specific sums out of which various expenses may be met including payments to such workers. Not only the witnesses have deposed to these but also Venkayya has stated about Sadar in his account which included all miscellaneous charges such as meals, etc. To prove a corrupt practice it must be positively established that a certain specified sum was expended on certain items which were not brought to account. This matter cannot be relegated to the realm of conjecture. Even if an estimate has to be made in relation to such expenses it should be only on certain proved facts. The allegations as made are vague. It was stated there that about 1,000 workers for about 3 weeks and about 1,500/- polling agents worked and the wages and maintenance for those people are not accounted for and no expenditure has been shown in the Return as boarding expenses of workers in the election. It is true some of the persons who were in charge of the constituencies had to bear expenses out of their own pockets in the range of Rs. 100/- or more. But it was spent for themselves; otherwise all expenses were met out of the amounts paid to them. The amounts that they are deemed to have spent on themselves were not claimed by them. So there can be no question that the Respondent had incurred that expense.

It is also said that there were paid organizers and the amounts paid to them have not been accounted for. Both Ranga and Latchanna have not admitted that the system of payment to the organizers still continued. At any rate, these organizers were not paid any amount by way of remuneration or honorarium by Ranga. They were not paid any remuneration for election work. Then it is pointed out that Suvani Sanyasi Apparao deposed in the beginning that he had taken Rs. 1,000/- towards expenses on 29th April, 1967 but he had returned the same and that amount has not been shown. First of all any amount that might have been expended on 29th April, 1967 cannot be brought to account as it is not an election expense incurred during the period. Apart from that, Suvani Sanyasi Apparao has stated that he had incurred no expenditure, and he returned the same. What R.W. 31 says is that he himself did not send the amount but told Venkalah that if Suvani Sanyasi Apparao incurred any expenses, he may be paid.

As regards the boarding and lodging expenses of the workers in the election, it is urged that Simma Jagannadham President of the District Swatantra Party and an M.L.A., was paid Rs. 5,000/- immediately after the election and he was also paid a sum of Rs. 1,200/-. These amounts paid under Exs. P. 845/10 and P. 845/11 were, in fact, towards boarding and lodging expenses of the workers lodged in Sri Venkateswara Lodge. R.W. 31 has explained that he gave one of these cheques to Simma Jagannadham towards rent for the Party office. It is proved by evidence that the Party office is in the house of Simma Jagannadham. Both the cheques are evidently of a date subsequent to the date of declaration of the result. One was given on 3rd May, 1967 and the other on 15th May, 1967. They cannot be connected with the election expenses, unless they are proved to be so. It is not proved that Simma Jagannadham was directly concerned with Venkateswara Lodge and the workers and agents were accommodated in that lodge and some huge amounts were paid towards their expenses, which according to para 6(f) of the petition is about Rs. 4,000/-. No evidence has been adduced with regard to the accounts of Sri Venkateswara Lodge even though they were summoned. The witnesses examined by the petitioner have said that the workers were put up in Sri Venkateswara Lodge and the expenses were met on behalf of the respondent. Both Latchanna and K. Venkalah who are said to be connected with payment have denied the same. The other witnesses too have denied. The accounts of the lodge would have been of some assistance but they were not sought to be proved. It cannot be disputed that it was in the house of Simma Jagannadham that the office of the Swatantra Party was put up. It is not unlikely that the amount paid as deposed to by R.W. 31 represented the rent therefor. R.W.

31 clearly says that the cheque given was towards rent for the Party office. As regards Rs. 1,200/- he is not in a position to say exactly in what account Rs. 1,200/- were paid. That was the payment, as already said, dated 15th May, 1967.

Now, para 6(g) remains for consideration.

It was alleged that an amount of Rs. 500/- for the purchase of voters, lists of the Assembly constituency was also not included in the return of election expenses. It is true that electoral rolls were obtained under Exs. P-776, P-777, P-778, P-779, P-780, P-785, P-811 to P-813, P-828 and P-830. They come to an extent of Rs. 478/- or more. The witnesses have admitted that they obtained voters' lists and paid money out of the money entrusted to them; rather the money that they paid was recouped out of the amount of Rs. 500/- that was paid to them. R.W. 15, 24 and 28 have spoken to it. There is no reason to disbelieve them. It is thus clear that the respondent has not exceeded the limit of Rs. 25,000/- even after including some of the petrol amounts which were not accounted for and which were incurred by way of purchase of the same from the petrol bunk of ESSO Standard Company, Kanchill, and also the amount of repairs referred to above, and all other amounts, if any, which according to the above finding should be included in the return.

Now, there remain issues 1, 2 and 10(a).

These issues are now of more academic interest for in view of the conclusions reached on the above issues, the decision of these issues one way or the other would not affect the result of this petition. Since some arguments were addressed, I want to deal with issue 1 and 2 as summarily as possible.

It is contended on behalf of the respondent that as the petition was not presented by the petitioner personally but by his advocate, the presentation was not proper, and the petition should be dismissed *in limine* on that basis. Reliance has been placed on sec. 81, which reads thus:—

"(1) An election petition calling in question any election may be presented on one or more of the grounds specified in sub-section (1) of section 100 and section 101 to the High Court by any candidate at such election or any elector within forty-five days from, but not earlier than, the date of election of the returned candidate, or if there are more than one return candidate at the election and the dates of their election are different, the later of those two dates."

What is stressed upon is that the provision *inter alia* enjoins that the election petition should be presented by the candidate or an elector. It does not say that it may be presented by his advocate as well. Hence the presentation by the advocate was improper and against the mandatory provision of sec. 81, read with sec. 80 and this should entail the penalty prescribed in sec. 86. It must be borne in mind that presentation is to the High Court. That could be done only in accordance with the rules of the High Court. The High Court in its rules has laid down that the petition may be presented to the Registrar by the petitioner or his advocate. It was in accordance with this rule that the petition was presented by the advocate. It must also be remembered that the statute does not say that it should be presented personally. That being a matter of mere procedure the provisions of rule 1 of Order III are attracted which permit presentation by an advocate unless the Act says that it should be personally presented. In fact, the legislature in certain cases, wherever it thought it necessary, has specifically provided that presentation must be in person. No such word has been used in sec. 81. While penal provisions have to be strictly construed, it is also necessary that the meaning of the words used cannot be narrowed down. They should be given that meaning which they are ordinarily capable of. Judged thus, the act of presentation by the advocate must be construed as the act of the party himself. Issue No. 1 must be decided against the respondent.

Similarly favourable to the petitioner is my conclusion with regard to issue No. 2. Issue No. 2 relates to limitation. There is little doubt that the petition which should be filed within 45 days from the date of election of the returned candidate has been so filed. It was presented on 12th June, 1967 which is within 45 days from 28th April, 1967, which is the date of declaration of result. Issue No. 2 is decided accordingly.

The last issue is issue No. 10(a) under which the constitutionality of the provision for fixation of maximum limit of election expenses by the rule-making authority is brought into question. As the question requires elaborate discussion and in view of the state of record, the decision on this point is not at all necessary, I think I should reserve my opinion on this point for a future occasion in a case where the decision on this point becomes necessary. I do not wish to add to

the size of the judgment which has already become very lengthy by entering into an elaborate discussion on this question which, for the purpose of this case is only of academic interest. I express no opinion on issue 10(a) as the petition, in view of the findings reached on other issues must fail.

I, therefore, dismiss the petition with costs. Advocate's fee is fixed at Rs. 1000/-.

Sd./- V. KRISHNASWAMY,
Deputy Registrar.

[No. 82/AP/20/67.]

ORDERS

New Delhi, the 16th December 1968

S.O. 94.—Whereas the Election Commission is satisfied that Shri Janardhan Bakaram Waghmare, Jaripatka, Indora, Nagpur, a contesting candidate for election to the House of the People from Nagpur Constituency, has failed to lodge an account of his election expenses in the manner required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate, even after due notices has not given any good reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Janardhan Bakaram Waghmare to be disqualified for being chosen as, and for being, a member, of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. MT-HP/21/67(1).]

S.O. 95.—Whereas the Election Commission is satisfied that Shri Kaushikrao Krishnaji Jamgade, Imamwada, Ward No. 6, Behind Police Line, Nagpur, a contesting candidate for election to the House of the People from Nagpur Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate, even after due notices has not given any good reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Kaushikrao Krishnaji Jamgade to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. MT-HP/21/67(2).]

New Delhi, the 19th December 1968

S.O. 96.—Whereas the Election Commission is satisfied that Shri B. H. Hanumappa S/o Hanumappa, Petechamanahally, Kasaba Hobli, Kolar Post, Kolar Taluk (Mysore State), a contesting candidate for election to the House of the People from Kolar Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate, even after due notice, has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri B. H. Hanumappa to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. MY-HP/9/67.]

By Order,

K. S. RAJAGOPALAN, Secy.

भारत निर्वाचन आयोग

आदेश

नई दिल्ली, 16 दिसम्बर, 1968

एस० नो० 97. —यतः, निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिए निर्वाचन के निमित्त नागपुर निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्री जनार्धन बकाराम बाघमारे, जरीपटका, इंदोरा, नागपुर, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित रीति से अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं;

और, यतः, उक्त उम्मीदवार ने उसे सम्यक् नोटिस दिये जाने पर भी, अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है ;

अतः, अब, उक्त अधिनियम की धारा 10क के अनुसरण में निर्वाचन आयोग एतद्द्वारा उक्त श्री जनार्धन बकाराम बाघमारे को संसद् के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और सदस्य होने के लिये इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये अनर्हित घोषित करता है ।

[सं० महा०-नो०स०/21/67(1)]

एस० नो० 98. —यतः, निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिए निर्वाचन के निमित्त नागपुर निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्री कौशिकराव कृष्णाजी जमगाडे, इमामवाडा, वाडं नं० 6, पुलिस लाइन के पीछे, नागपुर, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा यथा अपेक्षित अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक् नोटिस दिये जाने पर भी, अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है ;

अतः, अब, उक्त अधिनियम की धारा 10क के अनुसरण में निर्वाचन आयोग एतद्द्वारा उक्त श्री कौशिकराव कृष्णाजी जमगाडे को संसद् के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और सदस्य होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए अनर्हित घोषित करता है ।

[सं० महा०-नो०स०/21/67(2)]

नई दिल्ली, 19 दिसम्बर, 1968

एस० नो० 99. —यतः, निर्वाचन आयोग का समाधान हो गया है कि मैसूर राज्य से लोक सभा के लिये निर्वाचन के निमित्त कोलार निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्री बी० एच० हनुमप्पा सुपुत्र हनुमप्पा, पेटेचमाना-हेली, बसाबा होबली, डा० कोलार, कोलार-तालुक, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा यथा अपेक्षित अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं ;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक् नोटिस दिये जाने पर भी, अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है ;

अतः, अब, उक्त अधिनियम की धारा 10क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री बी० एच० हनुमप्पा को संसद के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और सदस्य होने के लिये इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए अनर्हित घोषित करता है।

[सं० मैसूर-लो०सं०/9/67]

आदेश से,

के० एस० राजगोपालन, सचिव।

ORDERS

New Delhi, the 23rd December 1968

S.O. 100.—Whereas the Election Commission is satisfied that Shri Afzul Rehman Son of Shri Habibul Rahman, Mohalla Nomania Baghra, District Muzaffarnagar, Uttar Pradesh, a contesting candidate for election to the House of the People from Kairana Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate, even after due notice, has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Afzul Rehman to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/83/67.]

S.O. 101.—Whereas the Election Commission is satisfied that Shri Latif S/o Shri Shahzada, Village Dhindawli, District Muzaffarnagar, Uttar Pradesh, a contesting candidate for election to the House of the People from Kairana Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate, even after due notice, has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Latif to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/83/67(1).]

New Delhi, the 24th December 1968

S.O. 102.—Whereas the Election Commission is satisfied that Shri Nathu Lal Sharma, Village and P.O. Barauli, Rustampur, District Moradabad, Uttar Pradesh, a contesting candidate for election to the House of the People from Moradabad Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate, even after due notice, has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Nathu Lal Sharma to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/7/67.]

S.O. 103.—Whereas the Election Commission is satisfied that Shri Najmul Hasan, Noorulla, Kunderki, District Moradabad, Uttar Pradesh, a contesting candidate for election to the House of the People from Moradabad Constituency, has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidate, even after due notice, has not given any reason or explanation for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Najmul Hasan to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/7/67(1).]

New Delhi, the 28th December 1968

S.O. 104.—Whereas the Election Commission is satisfied that Shri Vishwanath Aggarwal, 178-Rajendra Nagar, Lucknow (Uttar Pradesh), a contesting candidate for election to the House of the People from Gonda Constituency, has failed to lodge an account of his election expenses in the manner required by the Representation of the People Act, and the Rules made thereunder;

And whereas, after considering the representation made by the said candidate, the Election Commission is further satisfied that he has no good reason or justification for the failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the said Shri Vishwanath Aggarwal to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State for a period of three years from the date of this Order.

[No. UP-HP/33/67.]

By Order,

HARDIP SINGH, Under Secy.

for Secy.

आदेश

नई दिल्ली, 23 दिसम्बर, 1968

एस० ओ० 105—यतः, निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिए निर्वाचन के निमित्त कैराना निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्री अफजल रहमान सुपुत्र श्री हबीबुल रहमान, मोहल्ला नोमानिया बघरा, जिला मुजफ्फरनगर, उत्तर प्रदेश, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्घीन बनाए गए नियमों द्वारा यथा अपेक्षित अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक् नोटिस दिये जाने पर भी, अपनी इस असफलता के लिये कोई कारण अथवा स्पष्टीकरण नहीं दिया है;

अतः, अब, उक्त अधिनियम की धारा 10क के अनुसरण में निर्वाचन आयोग एतद्वारा उक्त श्री अफजल रहमान को संसद के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और सदस्य होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये अनर्हित घोषित करता है।

[सं० उ०प्र०-लो० सं०/83/67]

एस० ओ० 106.—यतः निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिए निर्वाचन के निमित्त कैराना निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्री लतीफ सुपुत्र श्री शाहजादा, गांव ढिंढावली, जिला मुजफ्फर नगर, उत्तर प्रदेश, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा यथा अपेक्षित अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक् नोटिस दिए जाने पर भी, अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है;

अतः, अब, उक्त अधिनियम की धारा 10 क के अनुसरण में निर्वाचन आयोग एतद्द्वारा उक्त श्री लतीफ को संसद् के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और सदस्य होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये अनर्हित घोषित करता है।

[सं० उ० प्र०—लो० स०/83/67 (1).]

नई दिल्ली, 24 दिसम्बर 1968

एस० ओ० 107.—यतः, निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिए निर्वाचन के निमित्त मुरादाबाद निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्री नाथूलाल शर्मा, गांव ब डाकघर बड़ौली, रुसतमपुर, जिला मुरादाबाद, उत्तर प्रदेश, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा यथा अपेक्षित अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक् नोटिस दिये जाने पर भी, अपनी इस असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है;

अतः, अब, उक्त अधिनियम की धारा 10 क के अनुसरण में निर्वाचन आयोग एतद्द्वारा उक्त श्री नाथूलाल शर्मा को संसद् के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और सदस्य होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये अनर्हित घोषित करता है।

[सं० उ० प्र०—लो० स०/7/67.]

एस० ओ० 108.—यतः, निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिये निर्वाचन के निमित्त मुरादाबाद निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्री नाजमुल हसन, नूरुल्ला कुडेरकी, जिला मुरादाबाद, उत्तर प्रदेश, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा यथा अपेक्षित अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं;

और, यतः, उक्त उम्मीदवार ने, उसे सम्यक् नोटिस दिये जाने पर भी, अपनी इस असफलता के लिये कोई कारण अथवा स्पष्टीकरण नहीं दिया है;

अतः, अब, उक्त अधिनियम की धारा 10 क के अनुसरण में निर्वाचन आयोग एतद्द्वारा उक्त श्री नाजमुल हसन को संसद् के दोनों सदनों में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और सदस्य होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये अनर्हित घोषित करता है।

[सं० उ० प्र०—लो० स०/7/67 (1).]

नई दिल्ली, 28 दिसम्बर 1968

एस० नो० 109.—यतः, निर्वाचन आयोग का समाधान हो गया है कि लोक सभा के लिए निर्वाचन के निमित्त गोंडा निर्वाचन क्षेत्र से चुनाव लड़ने वाले एक उम्मीदवार श्री विश्वनाथ अग्रवाल, 178, राजेन्द्रनगर, लखनऊ, उत्तर प्रदेश, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्धीन बनाए गए नियमों द्वारा अपेक्षित रीति से अपने निर्वाचन व्ययों का लेखा प्रस्तुत करने में असफल रहे हैं;

और, यतः, उक्त उम्मीदवार द्वारा दिये गये अभ्यावेदन पर विचार करने के पश्चात् निर्वाचन आयोग का यह भी समाधान हो गया है कि उसके पास इस असफलता के लिये कोई अशुद्धा कारण या न्यायोचित्य नहीं है;

अतः, अब, उक्त अधिनियम की धारा 10 क के अनुसरण में निर्वाचन आयोग एतद्द्वारा उक्त श्री विश्वनाथ अग्रवाल को संसद् के दोनों सदनो में से किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और सदस्य होने के लिये इस आदेश की तारीख से तीन वर्ष की कालावधि के लिये अनर्हित घोषित करता है।

[सं० उ० प्र०-ल० स०/33/67.]

आदेश से,

हरवीर सिंह,

अवर सचिव, कृते सचिव, भारत निर्वाचन आयोग।

MINISTRY OF FINANCE
(Department of Economic Affairs)

New Delhi, the 1st January 1969

S.O. 110.—In pursuance of the powers conferred by clause (11) of section 17 of the Reserve Bank of India Act, 1934 (2 of 1934), the Central Government hereby approves for the purposes of the said clause every corporation and authority incorporated by or under any special Act for the time being in force, and every Government Company as defined in section 617 of the Companies Act, 1956 (1 of 1956).

[No. F.9(4)-BC/68.]

New Delhi, the 3rd January 1969

S.O. 111.—Statement of the Affairs of the Reserve Bank of India, as on the 27th December, 1968.

BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital Paid up	5,00,00,000	Notes	47,39,75,000
		Rupee Coin	2,78,000
Reserve Fund	80,00,00,000	Small Coin	5,35,000
		Bills Purchased and Discounted :—	
National Agricultural Credit (Long Term Operations) Fund .	143,00,00,000	(a) Internal
		(b) External
		(c) Government Treasury Bills	216,61,58,000
National Agricultural Credit (Stabilisation) Fund	33,00,00,000	Balances Held Abroad*	80,86,59,000
		Investments**	170,50,02,000
National Industrial Credit (Long Term Operations) Fund . .	55,00,00,000	Loans and Advances to :—	
		(i) Central Government
		(ii) State Governments@	50,55,87,000
Deposits:—		Loans and Advances to :—	
(a) Government		(i) Scheduled Commercial Banks†	45,03,57,000
		(ii) State Co-operative Banks††	257,96,63,000
(i) Central Government	63,85,03,000	(iii) Others	2,49,32,000

		Loans, Advances and Investments from National Agricultural Credit (Long Term Operations) Fund :—	
(ii) State Governments	6,45,22,000	(a) Loans and Advances to :—	
(b) Banks:—		(i) State Governments	31,40,83,000
(i) Scheduled Commercial Banks	156,13,35,000	(ii) State Co-operative Banks	14,47,65,000
(ii) Scheduled State Co-operative Banks	7,50,21,000	(iii) Central Land Mortgage Banks	..
(iii) Non-Scheduled State Co-operative Banks	2,28,77,000	(b) Investment in Central Land Mortgage Bank Debentures	8,53,61,000
(iv) Other Banks	16,99,000	Loans and Advances from National Agricultural Credit (Stabilisation) Fund :—	
(c) Others	323,07,92,000	Loans and Advances to State Co-operative Banks	5,30,32,000
Bills Payable	43,33,74,000	Loans, Advances and Investments from National Industrial Credit (Long Term Operations) Fund:—	
Other Liabilities	58,62,38,000	(a) Loans and Advances to the Development Bank	6,26,71,000
		(b) Investment in bonds/debentures issued by the Development Bank	..
		Other Assets	39,93,03,000
	Rupees 977,43,61,000		Rupees 977,43,61,000

*Includes Cash, Fixed Deposits and Short-Term Securities.

**Excluding Investments from the National Agricultural Credit (Long Term Operations) Fund and the National Industrial Credit (Long Term Operations) Fund.

@Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

†Includes Rs. 32,12,80,000 advanced to scheduled commercial banks against usance bills under Section 17(4)(c) of the Reserve Bank of India Act.

††Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 1st day of January, 1969.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 27th day of December, 1968.

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department	47,39,75,000	..	Gold Coin and Bullion :—		
Notes in circulation	322,1,16,28,000	..	(a) Held in India	115,89,25,000	..
			(b) Held outside India	
TOTAL NOTES ISSUED		3268,56,03,000	Foreign Securities	206,42,00,000	..
			TOTAL		322,31,25,000
			Rupee Coin		83,14,61,000
			Government of India Rupee Securities		2863,10,17,000
			Internal Bills of Exchange and other Commercial paper
TOTAL LIABILITIES		3268,56,03,000	TOTAL ASSETS		3268,56,03,000

Dated the 1st day of January, 1969.

(Sd.) L. K. JHA,
Governor.

[No. F. 3(3)-BC/68.]

CORRIGENDUM*New Delhi, the 2nd January 1969*

S.O. 112.—In this Ministry's Notification No. F. 15(6)-BC/68, published in the Gazette of India dated 9th November, 1968 as S.O. No. 3963.

For "15th March, 1968".

Read "15th March, 1969".

[No. F.15(6)BC/68.]

V. SWAMINATHAN, Under Secy.

(Department of Revenue & Insurance)*New Delhi, the 2nd January 1969*

S.O. 113.—In exercise of the powers conferred by sub-clause (iii) of clause (44) of Section 2 of the Income-tax Act, 1961 (43 of 1961) the Central Government hereby authorises

(1) Shri V. M. Mehta

(2) Shri S. A. Kadri

(3) Shri V. J. Kudnani

who are Gazetted Officers of the Central Government, to exercise the powers of Tax Recovery Officers under the said Act.

2. This Notification shall come into force on the 2nd January, 1969.

[No. 1(16/267/68-ITB).]

S.O. 114.—In exercise of the powers conferred by rule 4 of the Income-tax (Certificate Proceedings) Rules, 1962, the Central Government hereby appoints the Commissioners of Income-tax, Bombay City I, Bombay, Bombay City II, Bombay, Bombay City III, Bombay and Bombay (Central), Bombay as Tax Recovery Commissioners.

2. This notification shall come into force on the second day of January, 1969.

[No. 2(F. No. 16/267/68-ITB).]

R. D. SAXENA, Dy. Secy.

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, BANGALORE**CENTRAL EXCISE***Bangalore, the 24th September 1968*

S.O. 115.—In exercise of the powers vested in me under Rule 5 of Central Excise Rules, 1944 and in modification of this Office Central Excise Notification No. 1/65, dated 3rd February, '65 I hereby empower the Officers of and above the rank of Superintendent of Central Excise in this Collectorate to exercise within their respective jurisdiction, the powers under Rule 56-A(4) of Central Excise Rules, 1944.

[No. 3/68.]

Bangalore, the 25th November 1968

S.O. 116.—In exercise of the powers vested in me under Rule 5 of Central Excise Rules 1944, I hereby empower the officers mentioned in Col. 2 of the table below to exercise within their respective jurisdiction, the powers of Collector under the Rule enumerated in Col. 3 and subject to the conditions and limitations set out in Col. 4 of the said table.

Sl. No.	Rank of Officer	C.Ex. Rule	Conditions and limitations
(1)	(2)	(3)	(4)
I	Asst. Collector.	52-A(1) of C.Ex. Rules.	Acceptance of an alternative document in lieu of Gate Pass (C.Ex. Series No. 65A) containing all information as is available in the statutory form

(1)	(2)	(3)	(4)
2	Asst. Collector.	Rule 53 read with rule 173 G(4) of C.Ex. Rules	Acceptance of an alternative document in lieu of statutory form R.G.1(CE series No. 38) containing all information as is available in the statutory form for assess us working under S. R. P. 2 1

[No 4/68.]

M. C DASS, Collector.

COLLECTORATE OF CENTRAL EXCISE: CALCUTTA & ORISSA: CALCUTTA:**CENTRAL EXCISE***Calcutta, the 21st December 1968*

S.O. 117.—In exercise of the powers conferred on me by Rules 15 and 16 of the Central Excise Rules, 1944 read with Rule 233 *ibid* and in supersession of this Collectorate Notification No. 6/1963 dated 11th October, 1963 and Notification No. 2-CE/1967 dated 21st March, 1967. I hereby notify the areas specified in the enclosed schedule as "sparse growing areas" where the growers and curers of tobacco shall be exempt from furnishing declarations of their areas of tobacco cultivation and yield respectively provided the area cultivated by a grower does not exceed the limit mentioned in column (4) and the quantity to be produced/cured does not exceed the limit specified in column (5) thereof:

Provided that if a person cultivates an area or as the case may be produces/cures a quantity in excess of the specified limit, the entire produce shall be subject to normal excise control.

SCHEDULE

Sl. No.	Name of the District	Portion covered	Areas exempted under Rule 15	Quantity exempted under Rule 16
1	2	3	4	5
A. State of Orissa				
1. Ganjam				
		<i>The whole of</i>		
		(a) Berhampur Sub-Division	12 areas	60 Kgs.
		(b) Charapur Sub-Division less Purusuttampur and Rambha Police Stations	"	"
		(c) Bhanjanagar Sub-Division less Bhanjanagar, Tarsingi and Buguda Police Stations.	8	"
		(d) Parlakemedi Sub-division less Parlakemedi Police Station	12	"
2. Koraput				
		<i>The whole of</i>		
		(a) Nowrangpur Sub-Division	12	60 kgs.
		(b) Malkangiri Sub-Division	"	"
		(c) Koraput Sub-Division less Narayannatnam Police Station except Kembhariput Panchayet of Bandhugaon Block	"	"
		(d) Jaypore Sub-Division	"	"
		(e) Rayagada Sub-Division less Rayagada Police Station	10	"
		(f) Gunupur Sub-Division less Blissem-Cuttack Police Station and Ambadola Police Station except Bijaya Bandali Panchayet and Ambadola Panchayet	12	"

1	2	3	4	5
3	Kalahandi	<i>The whole of</i> (a) Kalahandi Sub-Division . . . (b) Dharamgarh Sub-Division . . . (c) Nowapara Sub-Division . . .	12 areas " "	60 Kgs. " "
4	Bolangir	(a) Titlagarh Sub-Division . . . (b) Bolangir Sub-Division . . . (c) Sonepur Sub-Division . . . (d) Ratnagarh Sub-Division less Belpara Police Station . . .	5 6 6 5	" " " "
5	Cuttack	<i>The whole of</i> (a) Cuttack Sub-Division . . . (b) Jajpur Sub-Division . . . (c) Jagatsingpur Sub-Division . . . (d) Athgarh Sub-Division . . . (e) Kendrapara Sub-Division . . .	12 " " " "	" " " " "
6	Puri	<i>The whole of</i> (a) Puri Sub-Division . . . (b) Bhubaneswar Sub-Division . . . (c) Khurda Sub-Division . . . (d) Nawagarh Sub-Division . . .	" " " "	" " " "
7	Balasore	<i>The whole of</i> (a) Balasore Sub-Division . . . (b) Bhadrak Sub-Division . . . (c) Nilgiri Sub-Division . . .	" " "	" " "
8	Dhenkanal	<i>The whole of</i> (a) Dhenkanal Sub-Division . . . (b) Kamakhyanager Sub-Division . . . (c) Talcher Sub-Division . . . (d) Pilahara Sub-Division . . . (e) Athmallik Sub-Division . . . (f) Hindol Sub-Division . . . (g) Angul Sub-Division . . .	" " " " " " "	" " " " " " "
9	Keonjhar	<i>The whole of</i> (a) Keonjhar Sub-Division . . . (b) Champua Sub-Division . . . (c) Anandapur Sub-Division . . .	" " "	" " "
10	Mayurbhanj	<i>The whole of</i> (a) Mayurbhanj Sub-Division . . . (b) Bamanghati Sub-Division . . . (c) Panchpir Sub-Division . . . (d) Kantipada Sub-Division . . .	" " " "	" " " "
11	Sambalpur	<i>The whole of</i> (a) Sambalpur Sub-Division . . . (b) Kachinda Sub-Division . . . (c) Deogarh Sub-Division . . . (d) Bargarh Sub-Division . . . (e) Rairakhol Sub-Division . . .	" " " " "	" " " " "
12	Sundergarh	<i>The whole of</i> (a) Sundergarh Sub-Divn. . . (b) Panposh Sub-Division . . . (c) Bonai Sub-Division . . .	" " "	" " "
13	Boudhphulbani	<i>The whole of</i> (a) Khondmals Sub-Divn. . . (b) Boudh Sub-Division . . . (c) Balliguda Sub-Division . . .	8 areas " "	" " "

1	2	3	4	5
<i>B. State of West Bengal</i>				
1	24—Parganas	<i>The whole of</i>		
		(a) Barasat Sub-Division	12 acres	60 Kg.
		(b) Basirhat Sub-Division	"	"
		(c) Bongaon Sub-Division	"	"
2	Midnapur Distt.	The whole	12 acres	60 Kg.
3	Howrah District	The whole	12 acres	60 Kg.

Name of District	Name of Police Station	Name of Sub-Division	Name of village	Revenue Firka or Muta	Area exempted under Rule 15	Quantity exempted under Rule 16	Remarks
1	2	3	4	5	6	7	8
Koraput	Rayaga }	Rayagada	1. Tumbiguda	Tumbiguda Muta	10 acres	60 Kg.	Rayagada I Sector
"	"	"	2. Bairagihalwa	Bariragihalwa }	"	"	"
"	"	"	3. Padoloti	"	"	"	"
"	"	"	4. Sanaloti	"	"	"	"
"	"	"	5. Mitabadi	Merabilli Muta	"	"	"
"	"	"	6. Sansondubadi	"	"	"	"
"	"	"	7. Bodosarduhadi	"	"	"	"
"	"	"	8. Merabilli	"	"	"	"
"	"	"	9. Druchpaka	"	"	"	"
"	"	"	10. Lachikona	"	"	"	"
"	"	"	11. Sikabadi	"	"	"	"
"	"	"	12. Kodapasi	"	"	"	"
"	"	"	13. Bodolada	Gumma Muta	"	"	"
"	"	"	14. Sanalada	"	"	"	"
"	"	"	15. Jadighatta	Dumurpai Muta	"	"	"
"	"	"	16. Kumbha	"	"	"	"
"	"	"	17. Nellibadi	"	"	"	"
"	"	"	18. Kubhkhaf	"	"	"	"
"	"	"	19. Kumbesu	"	"	"	"
"	"	"	20. Kibhapadi	"	"	"	"
"	"	"	21. Palluguda	"	"	"	"
"	"	"	22. Raikona	"	"	"	"
"	"	"	23. Dumapai	"	"	"	"
"	"	"	24. Sikadrigum	Janata Muta	"	"	"
"	"	"	25. Panasguda	"	"	"	"
"	"	"	26. Arpana	"	"	"	"
"	"	"	27. Balamoti	"	"	"	"
"	"	"	28. Panabadi	"	"	"	"
"	"	"	29. Dangidi	Goudkundam Muta	"	"	"
"	"	"	30. Kondokandam	"	"	"	"

33	33	33	69. Athada	33	33	33
33	33	33	70. Anija	33	33	33
33	33	33	71. Ampalvasa	33	33	33
33	33	33	72. Kerada	33	33	33
33	33	33	73. Mattukerada	33	33	33
33	33	33	74. Gankanpeta	33	33	33
33	33	33	75. Hirsamohi	Perigam Muta	33	33
33	33	33	76. Papa	33	33	33
33	33	33	77. Tikaralpnttra	Umervelli Muta	33	33
33	33	33	78. Japa	Beriguda Muta	33	33
33	33	33	79. Upperdamboo	33	33	33
33	33	33	80. Mallipada	Nathma Muta	33	33
33	33	33	81. Anthraguda	Rayagada Muta	33	33
Koraput	Wayagada	Rayagada	1. Ballikamar	Theruvai Muta	10 acres	60 Kg. Rayagada II Sector
33	33	33	2. Geraput	33	33	33
33	33	33	3. Penta	33	33	33
33	33	33	4. Pujariguda	33	33	33
33	33	33	5. Dumbbriguda	33	33	33
33	33	33	6. Elelegpadu	33	33	33
33	33	33	7. Dondili	Dondali Muta	33	33
33	33	33	8. Binishpur	Emalguda Muta	33	33
33	33	33	9. Belkona	Bejja Muta	33	33
33	33	33	10. Sashikal	33	33	33
33	33	33	11. Karnipadu	33	33	33
33	33	33	12. Malligam	Malligam Muta	33	33
33	33	33	13. Karnipadu	33	33	33
33	33	33	14. Khillapadar	33	33	33
33	33	33	15. Kunjabadi	33	33	33
33	33	33	16. Banduguda	33	33	33
33	33	33	17. Landabadi	G. Rengalpadu Muta	33	33
33	33	33	18. Lactiguda	Aribi Muta	33	33
33	33	33	19. Pokiri	33	33	33
33	33	33	20. Chintaguda	33	33	33
33	33	33	21. Sangummada	33	33	33
33	33	33	22. Roddangi	33	33	33
33	33	33	23. Kumbiguda	33	33	33
33	33	33	24. Killopadar	33	33	33
33	33	33	25. Sikkobadi	33	33	33
33	33	33	26. Kargadi	33	33	33
33	33	33	27. Pengili	33	33	33
33	33	33	28. Mathikeswari	Madanpur Muta	33	33
33	33	33	29. Pipalguda	33	33	33

1	2	3	4	5	6	7	8
Koraput	Rayagada	Rayagada	30. Gunakona	Madanpur Muta	10 ares	60 Kgs.	Rayagada II
"	"	"	31. Paikjodi	Pindia Muta	"	"	Rayagada II
"	"	"	32. Kirikinda	"	"	"	Sector
"	"	"	33. Kondachampi	Kailaskota Muta	"	"	"
"	"	"	34. Minajola	"	"	"	"
"	"	"	35. Tandikona	"	"	"	"
"	"	"	36. Barisola	"	"	"	"
"	"	"	37. Sundidhamini	"	"	"	"
"	"	"	38. Lingaguda	"	"	"	"
"	"	"	39. Jhengidipadar	"	"	"	"
"	"	"	40. Rekhapadar	"	"	"	"
"	"	"	41. Bhoimada	"	"	"	"
"	"	"	42. Boringpai	"	"	"	"
"	"	"	43. Pandritola	"	"	"	"
"	"	"	44. Jagannathpur	"	"	"	"
"	"	"	45. Chinachanduli	Paper Mill side	"	"	"
"	"	"	46. Anandapadu	Revelokona Muta	"	"	"
"	"	"	47. Bodapadu	"	"	"	"
"	"	"	48. Kuttiguda	"	"	"	"
"	"	"	49. Champia	Utkapadu	"	"	"
"	"	"	50. Allubadi	"	"	"	"
"	"	"	51. Utkapadu	"	"	"	"
"	"	"	52. Jharkapadu	Koliguda Muta	"	"	"
"	"	"	53. Kooliguda	"	"	"	"
"	"	"	54. Kasili	"	"	"	"
"	"	"	55. Bathodi	G. Lellibadi Muta	"	"	"
"	"	"	56. Udapathiguda	Thumbiguda Muta	"	"	"
"	"	"	57. Bandhuguda	Kailaskota Muta	"	"	"
"	Bissemcuttack	Gunupur	1. Jagannathpur	Bissemcuttack	12 ares	"	Bissemcuttack
"	"	"	2. Nanirguda	"	"	"	I Sector
"	"	"	3. Panasguda	"	"	"	"
"	"	"	4. Sammutkabadi	Chattikona	"	"	"
"	"	"	5. Chattikona	"	"	"	"
"	"	"	6. Hirsamoti	"	"	"	"
"	"	"	7. Baliabhotta	"	"	"	"
"	"	"	8. Goilhona	"	"	"	"
"	"	"	9. Chintalguda	"	"	"	"
"	"	"	10. Kerandiguda	"	"	"	"

1	2	3	4	5	6	7	8
Korapur	Bissem-cuttack	Gunupur	37. Lottaguda	Durgi	12 ares	60 Kgs.	Bissem-Cuttack II Sector
38. Papikhal							
39. Mundipadar							
40. Dumernali							
41. Katulipadar							
42. Durbaguda							
43. Kacampadar							
44. Rengabhai							
45. Konabhai							
46. Retlipadar							
47. Kari							
48. Papadambo							
49. Pichiliguda							
50. Rengalpadu							
1. Purnapani				Hat-Muniguda			Bissem-Cuttack III Sector
2. Hirsahada							
3. Hukumtola							
4. Borikhal				Dang-surada			
5. Bodpandrikhal							
6. Bangrada							
7. Dhuhagudi				Kutraguda			
8. Tandibai							
9. Bhirabogoda				Kumudabagi			
10. Singari							
11. Podimuska							
12. Meringi							
13. Jugapadar				Doikhal			
14. Kurmajodi							
15. Banjikusum							
16. Sauraguda							
17. Maguni							
18. Asurpara							
19. Badadoikhal							
20. Hatipadar							
21. Doradrukulima							
22. Kuntipadi							
	Ambodala						

Balangir	Belpara	Patnagaru							
			23. Karadabando						
			24. Kodilima						
			25. Rarodi						
			1. Bahabal		Bahabal	5 ares	60 Kgs.	Belpara Secto	
			2. Malpara		Kanut				
			3. Tanla		Belpara				
			4. Sarumuhan.		Sarumuhan				
			5. Bharuapalli		Belpara				
			6. Bharuamunda		Belpara				
			7. Balikhamar		Kapani				
			8. Ohingiamunda		Kapani				
			9. Kapani						
			10. Mundagaon						
			11. Dungriguda.						
			12. Malijahar						
			13. Jamkhari						
			14. Hatkat		Dhumabbata				
			15. Kurenbhali						
			16. Fata Munda						
			17. Bholiabandha						
			18. Satuan		Mondal				
			19. Sargipalli						
			20. Ainapalla		Dhumabbata				
			21. Khalkhali						
			22. Jalia						
			23. Ghagurli		Ghagurli				
			24. Khaliapalli						
			25. Dumarmunda						
			26. Jhariamunda		Suleikela				
			27. Gambhari		Gambhari				
			28. Munapalli						
			29. Kumarkhani						
			30. Bagdore						
			31. Thodibahal						
			32. Kalchibahal		Dhumabbata				
			33. Suanbahal		Kanut				
			34. Bichubahal		Bahabal				
			35. Baliabhata		Panclamunda				
			36. Sojandi		Kanut				
			37. Juba		Dhumabbata				
			38. Muribahal		Kanut				

1	2	3	4	5	6	7	8
Balangir	Belpara	Patnagarh	39. Palesara	. . .	Sarulimuhan	5 ares	60 Kgs. Belpara Sector
"	"	"	40. Bhalubahal	. . .	Ghagurli	"	"
"	"	"	41. Dorumunda.	. . .	Dhumabhata	"	"
"	"	"	42. Dungartala	. . .	"	"	"

[No. 6/1968.]

(C. No. V(a) (157/Stat/68/11839 D.).

N. MOOKHERJEE, Collector.

MINISTRY OF INDUSTRIAL DEVELOPMENT & COMPANY AFFAIRS

(Department of Industrial Development)

New Delhi, the 30th December 1968

S.O. 118/IDRA/6/13/68.—In exercise of the powers conferred by Section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) read with rules 5 and 8 of the Development Councils (Procedural) Rules, 1952, the Central Government hereby appoints, till the 16th August, 1970, Shri A. Satyanarayana to be a member of the Development Council for the scheduled industries engaged in the manufacture or production of Drugs and Pharmaceuticals established by the Order of the Government of India in this Ministry's Order No. S.O. 2853/IDRA/6/6/68 dated the 17th August, 1968 and directs that the following amendment shall be made in the said Order, namely:—

In the said Order, for the entry No. 25 relating to Shri S. Sundararajan, the following entry shall be substituted, namely:—

“25. Shri A. Satyanarayana, Deputy Secretary, Ministry of Petroleum and Chemicals, New Delhi.”

[No. 13(1)/68-LC.]

R. C. SETHI, Under Secy.

(Department of Industrial Development)

(Indian Standards Institution)

New Delhi, the 24th December 1968

S.O. 119—The Certification Marks Licences, details of which are mentioned in the Schedule given hereafter, have lapsed or their renewal deferred

SCHEDULE

Sl. No.	Licence No. and Date	Licensee's Name and Address	Article/Process and the Relevant IS: No.	S.O. Number and Date of the Gazette Notifying Grant of licence	Remarks
(1)	(2)	(3)	(4)	(5)	(6)
1	CM/L-117 13-2-1959	M/s Metallica Works Pvt. Ltd., 11 Worli Road, Bombay-18.	Antifriction Bearing Alloys—IS: 25-1961	S.O. 618 Dt. 21-3-59	The licence was deferred after 30-6-1967 and has now to be treated as lapsed after that date.
2	CM/L-148 28-9-1959	M/s Flintrock Products Pvt. Ltd., Belvedere Road, Mazagaon, Bombay.	BHC Dusting Powders—IS: 561-1962	S.O. 2202 Dt. 10-10-1959	Lapsed after 30-11-1968
3	CM/L-411 30-4-1962	M/s Mysore Insecticides Co. Pvt. Ltd., 18 Vidyannatha Mudali Street, Tondiarpet, Madras-21, having their Office at 6-Linghi Chetty Street, Madras-1.	BHC Water Dispersible Powder Concentrates—IS: 562-1962	S.O. 1509 Dt. 19-5-1962	Lapsed after 15-11-1968
4	CM/L-800 12-10-1964	M/s Flintrock Products Pvt. Ltd., Belvedere Road, Mazagaon, Bombay	DDT Dusting Powders—IS: 564-1961	S.O. 4038 Dt. 28-11-1964	Lapsed after 31-10-1968
5	CM/L-823 2-11-1964	M/s Swadeshi Industries Ltd., 4 Synagogue Street, Calcutta-1	Structural Steel (Standard Qua- lity)—IS: 226-1962	S.O. 79 Dt. 2-1-1965	Lapsed after 15-11-1968
6	CM/L-824 2-11-1964	Do.	Structural Steel (Ordinary Quality)—IS: 1977-1962	S.O. 79 Dt. 2-1-1965	Do.
7	CM/L-1276 6-6-1966	M/s Digvijaya Industries Pvt. Ltd., Bangrod, Dist. Ratlam (M.P.)	Structural Steel (Standard Quality)—IS: 226-1962	S.O. 2248 Dt. 30-7-1966	Deferred after 31-8-1968
8	CM/L-1277 6-6-1966	Do.	Structural Steel (Ordinary Quality)—IS: 1977-1962	Do.	Do.

9	CM/L-1334 23-9-1966	The Bhor Industries Ltd., Borivli (East), Bombay-66 having their Regd. Office at Sir Vithaldas Chambers, 16 Apollo St, Fort, Bombay-1.	Unsupported, Flexible Vinyl Film and Sheeting, Types 1 and 2—IS: 2076-1962	S.O. 3299 Dt. 5-11-1966	Deferred after 30-9-1968
10	CM/L-1344 30-9-1966	M/s Johnson & Johnson of India Ltd., Agra Road, Muland, Bombay-80 having their Office at 30 Forjett St., Bombay-26.	Pressure Sensitive Adhesive Cellulose Tape (Transparent)—IS: 2880—1964	Do.	Lapsed after 30-9-1968
11	CM/L-1359 30-11-1966	M/s Skytone Electricals (India), 43 Industrial Area, Faridabad having their office at 2655 Sadar Thana Road, Delhi-6.	Weatherproof Polythene Insulated, Taped, biaded and Compounded Cables with Aluminium Conductors—IS: 3035 (Part II)-1965	S.O. 3923 Dt. 24-12-1966	Deferred after 30-11-1968
12	CM/L-1361 30-11-1966	M/s Ankar Industries, Jessore Road, P.O. Madhyamgram, Distt. 24 Parganas.	DDT Dusting Powders—IS: 564-1961	S.O. 3923 Dt. 24-12-1966	Lapsed after 30-11-1968
13	CM/L-1425 11-4-1967	M/s Prakash Metal Industries, Chhachrauli Gate, Jagadhri.	Wrought Aluminium Utensils, Grade SIC—IS: 21-1959	S.O. 2769 Dt. 12-8-1967	The licence was deferred after 15-4-1968 and has now to be treated as lapsed after that date.
14	CM/L-1508 6-9-1967	M/s Metropole Industries, Pradhankunta, Distt. Dhanbad.	BHC Dusting Powders—IS: 561-1962	S.O. 3733 Dt. 21-10-1967	Deferred from 16-9-1958 to 15-12-1968
15	CM/L-1536 4-10-1967	Shree Durga Glass Works, Barang, Orissa.	Glass Milk Bottles—IS: 1392-1959	S.O. 4258 Dt. 9-12-1967	Deferred after 15-10-1968
16	CM/L-1551 24-10-1967	M/s Mahabir Steel Rolling Mills, Qabool Nagar, G.T. Road, Shahdara, Delhi-32.	Rolled Steel Sections for Doors, Windows and Ventilators—IS: 1038-1957	Do.	Deferred after 31-10-1968
17	CM/L-1566 24-11-1967	M/s Keen Pesticides (Pvt.) Ltd., Industrial Estate, Mudali P.O., Via Perumbanoor, Kerala.	BHC Water Dispersible Powder Concentrates—IS: 562-1962	S.O. 4568 Dt. 23-12-1967	Deferred after 30-11-1968

No. CMD/13/14]

New Delhi, the 27th December 1968

S.O. 120.—In pursuance of sub-regulation (4) of regulation 14 of the Indian Standards Institution (Certification Marks) Regulations 1955, as amended from time to time, the Indian Standards Institution hereby notifies that licence No. CM/L-1285, particulars of which are given below, has been cancelled with effect from 16 September 1968:

Licence No. and Date	Name & Address of the Licensee	Article/Process Covered by the licence cancelled	Relevant Indian Standard
CM/L-1285 28-6-1966	M/s Swicon Private Ltd., B-10 H.M.T. Industrial Estate, Jalahalli, Bangalore-31 having their Regd. Office at 521, Rajamehal Vilas Extension, Upper Palace Orchards, Bangalore-6.	ac Contractors of Voltage not exceeding 1000 Volts Category AC3, Mechanical Duty Class II, Intermittent Duty Class IV Brand 'S' Swicon.	IS: 2959-1965 Specification for ac Contractors of Voltage not exceeding 1000 Volts.

[No. CMD/55:1285]

S.O. 121.—In pursuance of sub-regulation (1) of Regulation of 5 of the Indian Standards Institution (Certification Marks) Regulations 1955, as amended from time to time, the Indian Standards Institution hereby notifies that subsequent upon the publication of IS:213-1968 Specification for naphtha (*first revision*), the Indian Standards, particulars of which are mentioned in the Schedule given hereafter, have been cancelled:

THE SCHEDULE

Sl. No.	No. and Title of the Indian Standard Cancelled	No. and Date of Gazette Notification in which Established of the Indian Standard was Notified.
1	IS : 214-1956 Specification for coal tar naphtha, heavy	S.R.O. 1320 dated 1 June 1956, published in the Gazette of India, Part II, Section 3 dated 9 June 1956.
2	IS : 1272-1958 Specification for coal tar solvent naphtha, light, grade 2	S.O. 350 dated 3 Feb. 1959, published in the Gazette of India, Part II, Section 3, sub-section (ii) dated 14 Feb. 1959.

[No. CMD/13:7]

S.O. 122.—In pursuance of sub-regulation (3) of regulation 7 of the Indian Standards Institution (Certification Marks) Regulations, 1955, the Indian Standards Institution hereby notifies that the marking fee per unit for ice-cream, details of which are given in the Schedule hereto annexed has been determined and the fee shall come into force with effect from 1 January 1969:

THE SCHEDULE

Sl. No.	Product/Class of Products	No. and Title of Relevant Indian Standard	Unit	Marking Fee per Unit.
(1)	(2)	(3)	(4)	(5)
	Ice-cream	IS : 2802-1964 Specification for ice-cream	One litre	(i) 1 paisa per unit for the first 300,000 units; (ii) $\frac{1}{2}$ paisa per unit for the 300,001st unit and above.

[No. CMD/13:10]

S.O. 123 In pursuance of sub-rule (1) of rule 4 of the Indian Standards Institution (Certification Marks) Rules, 1955 the Indian Standards Institution hereby notifies that the Standard Mark, design of which together with the verbal description of the design and the title of the relevant Indian Standard is given in the Schedule hereto annexed, has been specified.

This Standard Mark for the purpose of the Indian Standard Institution (Certification Marks) Act, 1952 and the Rules and Regulations framed thereunder, shall come into force with effect from 1 January 1969.

THE SCHEDULE

Sl. No.]	Design of the Standard Mark	Product/ Class of Product	No. and Title of the Relevant Indian Standard	Verbal description of the Design of the Standard Mark
(1)	(2)	(3)	(4)	(5)
	IS : 2802	Ice-Cream	Is : 2802-1964 Specification for ice-cream	The monogram of the Indian Standards Institution, consisting of letters 'ISI', drawn in the exact style and relative proportions as indicated in Col. (2), the number designation of the Indian Standard being superscribed on the top side of the monogram as indicated in the design.



[No. CMD/13:9.]
(Dr.) A. K. Gupta,
Dy. Director General.

(Department of Industrial Development)**(Indian Standards Institution)***New Delhi, the 26th December 1968*

S.O. 124.—In exercise of the powers conferred on me under sub-regulation (4) of regulation 3 of the Indian Standards Institution (Certification Marks Regulations, 1952 as amended from time to time, modification is to the provision of Is : 3989-1967 details of which are mentioned in the Schedule given hereafter, have tentatively been made with a view to expediting the use of the Standard Mark, without in any way affecting the quality of goods covered by the relevant standard:

THE SCHEDULE

Sl No.	No. and Title of Indian Standard, the provisions of which have been modified	Particulars of the existing provisions	Particulars of the modifications made to the provisions	Date from which the modifications shall come into force
(1)	(2)	(3)	(4)	(5)
	IS: 3989-1967 Specification for centrifugally cast (spun) iron spigot and socket soil and waste venting pipes	Clause 8.1 (i) relating to tolerances of 100 mm vent-dia barrel	+3.5 -4.0 for ± 3.5	1 January 1969

[No. CMI/13:4.]
(Dr.) A. N. GHOSH,
Director General.

MINISTRY OF HEALTH, FAMILY PLANNING AND URBAN DEVELOPMENT**(Deptt. of Health and U.D.)***New Delhi, the 26th December 1968*

S.O. 125.—Whereas under clause (o) of sub-section (1) of Section 3 of the Indian Nursing Council Act, 1947 (48 of 1947), the House of the People (Lok Sabha) has elected from among its members Shri H. Ajmal Khan and Shri G. Venkataswamy on the 11th November, 1968, to be the members of the Indian Nursing Council in place of Shrimati Sangam Laxmibai and Shrimati Ram Dulari Sinha;

Now, therefore, in pursuance of the provisions of sub-section (1) of section 3 of the said Act, the Central Government hereby makes the following further amendments in the notification of the Government of India in the late Ministry of Health, No. F. 27-57/57-MH(B), dated the 1st December, 1958, namely:—

In the said Notification, under the heading "Elected under clause (o) of sub-section (1) of section 3" for the entries "1. Shrimati Sangam Laxmibai, M.P. and 2. Shrimati Ram Dulari Sinha, M.P.", the following entries shall be substituted, namely:—

1. Shri Ajmal Khan, M.P.
2. Shri G. Venkataswamy, M.P."

[No. F. 24-41/68-MPT.]

ORDER*New Delhi, the 26th December 1968*

S.O. 126.—Whereas by the notification of the Government of India in the Ministry of Health, Family Planning and Urban Development Notification No. 19-32/68-MPT, dated the 16th December, 1968, the Central Government has directed that the medical qualification "M.D." granted by the Free University of Brussels, Belgium shall be a re-

cognised medical qualification for the purposes of the Indian Medical Council Act, 1956 (102 of 1956);

And whereas Dr. Francine Quinchon who possesses the said qualification is for the time being attached to the Island of Peace Project at Kalakad, Tirunelveli District, Madras State for the purposes of charitable work;

Now, therefore, in pursuance of clause (c) of the proviso to sub-section (1) of section 14 of the said Act, the Central Government hereby specifies a period of two years from the date of issue of this order in the Official Gazette, or the period during which Dr. Francine Quinchon is attached to the said Island of Peace of Project, whichever is shorter, as the period to which medical practice by the aforesaid doctor shall be limited.

[No. F. 19-32/68-MPT.]

K. DEO, Under Secy.

(Department of Health)

New Delhi, the 30th December 1968

S.O. 127.—The following draft of rules further to amend the Drugs and Cosmetics Rules, 1945, which the Central Government proposes to make, after consultation with the Drugs Technical Advisory Board, in exercise of the powers conferred by sections 12 and 33 of the Drugs and Cosmetics Act, 1940 (23 of 1940), is published, as required by the said sections for the information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration on or after the 15th March 1969.

2. Any objections or suggestions which may be received from any person with respect to the said draft before the date so specified will be considered by the Central Government:—

DRAFT RULES

1. These rules may be called the Drugs and Cosmetics (Amendment) Rules, 1968.

In the Drugs and Cosmetics Rules, 1945, in Schedule F, in Part I for "(B) Provisions Applicable to the Production of Vaccine Lymph (Vaccinum Vaccinae the following shall be substituted, namely:—

"(B)—Provisions Applicable to Vaccine Lymph

Definitions

1. *International name and proper name.*—The international name of the preparation shall be 'Vaccinum variolae' and the proper name shall be 'Vaccine Lymph'.
2. *Descriptive definition.*—Vaccinum variolae (Vaccine Lymph) is a fluid or dried preparation of vaccine a virus grown in the skin of living animals or in the membranes of the chick embryo or in the vitro cultures of suitable tissues. The preparation shall satisfy all the requirements formulated below.
3. *International standard and reference preparations.*—The International Reference Preparation of Smallpox Vaccine (Established in 1962) is dispensed in ampoules containing 14 mg of freeze-dried smallpox vaccine. This reference preparation is in the custody of the International Laboratory for Biological Standards, States Serum Institute, Copenhagen. The international reference preparation is intended for the calibration of reference preparations for use in this country in the manufacture and laboratory control of Smallpox Vaccine.
4. *Terminology.*—(1) *Primary seed lot* means a quantity of virus adapted to, and grown on the skin of a living animal, which has been processed together and has a uniform composition.
- (2) *Secondary seed lot* means a quantity of virus grown in the skin of living animals or in the chorio-allantoic membranes of chick embryos or in tissue cultures, which is uniform with respect to composition and is not more than 5 passages removed from a primary seed lot.
- (3) *Single harvest* means a quantity of material harvested from one animal or a quantity of material harvested from a group of chick embryos or tissue cultures inoculated, incubated and harvested together.

- (4) *Bulk material* means the material at any stage after harvesting and before filling into final containers. Bulk material may be prepared from one or a number of single harvests.
- (5) *Final bulk* means a quantity of vaccine after completion of preparations for filling and present in the container from which the final containers are filled.
- (6) *Filling lot (final lot)* means a collection of sealed final containers that are homogeneous with respect to the risk of contamination during filling or drying. A filling lot must, therefore, have been filled in one working session and (if applicable) have been dried together.
- (7) *Pock-forming unit*: means the smallest quantity of virus suspension that will produce a single pock on the chick chorio-allantoic membrane.
- (8) *Plaque-forming unit (PFU)* means the smallest quantity of virus suspension that will produce a single primary plaque in monolayer cell cultures.
5. *General Manufacturing Requirements.*—Subject to the other provisions of the Rules the manufacturer of Smallpox Vaccine shall maintain the staff, premises and equipment as laid down in Schedule M and shall also comply with the provisions contained in Part I (A) of this Schedule in so far as it is applicable to the manufacture of Smallpox Vaccine.
6. *Production Control (A) Control of source materials Virus strains.*—(1) The strains of virus used in the production of all seed lots shall be identified by historical records. They shall have been shown to the satisfaction of the licensing authority to yield immunogenic vaccines which produce typical vaccinal lesions in the skin of man followed by insusceptibility to subsequent challenge by revaccination with a strain of virus known to protect man against variola. The strains shall produce a characteristic vesicular eruption in the skin of rabbits and reproducible characteristic pock lesions in the skin membranes of chick embryos. In addition, the vaccine strains shall be characterized by serological tests and animal inoculation.
 - (2) Records shall be maintained of all tests made periodically for verification of strain character.
 - (3) The strain used for vaccine production should be one that has never shown a greater tendency to produce generalized lesions or lesions of the nervous system in either man or animals than other strains of vaccinia virus which have been found to be satisfactory without producing severe local lesions and marked systemic disturbance. Strains of so-called 'neurovaccine' should be excluded.
7. *Animals or tissues for the production of seed virus and vaccine.*—(1) Only healthy animals or tissues from healthy animals, susceptible to ectodermal inoculations with vaccinia virus, or chick embryos obtained from healthy flocks shall be used for vaccine production. They shall conform to all the requirements given in (para 10) of these standards. If cell cultures are used for vaccine production they shall be shown to be free from detectable adventitious agents.
 - (2) Different species of animals may be used for vaccine production or for preparing seed virus. Calves, sheep, buffaloes, donkeys and rabbits may be used successfully.
 - (3) The chorio-allantoic membrane of the developing chick embryo and tissues from the embryos or young animals of susceptible species may also be suitable for virus propagation.
8. *Seed lot system.*—(1) A primary seed lot shall be used as original material for the preparation of a Secondary seed lot. The Secondary seed lot shall be not more than five passages removed from a Primary seed lot. If vaccine is produced in the skin of a living animal the Secondary seed lot shall be prepared from the Primary seed lot without passage in chick embryos or tissue cultures. Vaccines shall be prepared from a seed lot without intervening passage.
 - (2) Seed lots should be maintained either in dried, frozen, or glycerinated form. If a glycerinated seed lot is used it should be kept continuously at a temperature below 0°C.
9. *Tests on seed lots for the presence of extraneous micro-organisms.*—(1) The seed lot in the dilution used as inoculum for the production of vaccine in the skin of animals, shall satisfy the requirements of para 14 of these Standards.

(2) The seed lot used for the production of vaccine in chick embryos or in tissue cultures shall after rehydration if applicable, satisfy the requirements of para 20.

10. (B) *Production precautions.*—The precautions to be taken in the production of Smallpox Vaccine in matters relating to cleanliness of the premises, rooms, apparatus, equipments and materials, and the precautions against contamination shall be such as to ensure the purity, sterility and strength of the Vaccine and shall be approved by the licensing authority, with the following additional precautions, namely :—

(1) *Where Vaccines produced in the skin of living animals:—*

- (a) The animals shall be freed of ectoparasites, and each animal shall be kept in quarantine under veterinary supervision for at least two weeks prior to the inoculation of the seed virus. Before inoculation the animals shall be cleaned, and thereafter kept in scrupulously clean stalls until the vaccinal material is harvested.
- (b) During a period of five days before inoculation and during incubation the animals shall remain under veterinary supervision, they shall remain free from any sign of disease, and daily rectal temperatures shall be recorded. If any, abnormal rise in temperature occurs, or if any clinical sign of disease is observed, the production of vaccine from the group of animals concerned shall be suspended until the cause of these irregularities has been resolved. The prophylactic and diagnostic procedures adopted to exclude the presence of infectious disease shall be submitted for approval to the licensing Authority.
- (c) The inoculation of seed virus shall be made on such parts of the animal as are not liable to be soiled by urine and faeces. The surface used for inoculation shall be so shaved and cleaned as to procure the nearest possible approach to surgical asepsis. If any antiseptic substance deleterious to the virus is used in the cleaning process it shall be removed by thorough rinsing with sterile water prior to inoculation. During inoculation, the exposed surface of the animal not used for inoculation shall be covered with sterile covering.
- (d) Before the collection of the vaccinal material, any antibiotic shall be removed and the inoculated area shall be subjected to a repetition of the cleaning process. The uninoculated surfaces shall be covered with sterile covering.
- (e) Before harvesting, the animal may be killed painlessly. The animals shall be exsanguinated before harvesting to avoid heavy admixture of the vaccinal material with blood.
- (f) The vaccinal material from each animal shall be collected separately with aseptic precautions.
- (g) All animals used in the production of vaccine if killed shall be examined by autopsy. If evidence of any generalized or systemic disease other than vaccinia is found, the vaccinal material from that animal shall be discarded. If the disease is considered to be a communicable one, the harvest from the entire group of animals exposed shall be discarded.
- (h) When the vaccinal material is collected from a living animal each such animal shall be kept under observation for a period of at least forty-eight hours after collection of the vaccinal material. If during this period the examination reveals any conditions which indicate or suggest that the animal was suffering from any infection other than vaccinia the vaccinal material obtained from that animal shall not be issued.

(2) *Where Vaccines produced in the chick embryo:—*

- (a) Only eggs from flocks known to be free from disease, including avian leucosis, shall be used.
- (b) In particular, it is desirable that the eggs should be derived from flocks free from *salmonella pullorum*, *Mycobacterium tuberculosis*, *Rous virus*, *mycoplasma* and other agents pathogenic for chickens.
- (c) Living embryos after incubation for a suitable period shall be inoculated with seed virus which shall satisfy the requirements of paras 8 and 9 of these standards. After further incubation for a suitable period, the vaccinal material shall be harvested with aseptic precautions.

(3) *Where Vaccines produced in tissue culture:—*

- (a) Only primary tissue cultures from animals known to be free from disease shall be used. The virus shall be drawn and harvested with aseptic precautions. No material of human origin shall be added to the cultures at any stage.

(b) Suitable antibiotics in minimum concentrations required for sterility may be used but the use of penicillin and streptomycin is prohibited.

(c) *Control of the bulk material*

11. *Initial treatment.*—(1) The vaccinal material harvested from the skin of each animal shall be subjected to a treatment designed to reduce its content of living extraneous micro-organisms, if this is necessary, it should satisfy the requirements of para 14. No antibiotics shall be added to the bulk material.

(2) If the vaccine is intended for issue in the liquid form, this treatment may consist of the addition of glycerol or other suitable diluent, with or without an antibacterial substance, and temporary storage at a suitable temperature.

(3) If the vaccine is intended for issue in the dried form, the treatment may consist of the addition of a suitable antibacterial substance and/or of the removal of micro-organisms by centrifugation.

(4) Vaccinal material collected from chick embryos or tissue cultures does not need such treatment, but glycerol and/or an antibacterial substance should be added as a precaution against later contamination.

12. *Final bulk.*—(1) After the initial treatment, vaccine intended for issue in the liquid form may be made up by dilution of Bulk material with glycerol and/or another suitable diluent.

(2) Vaccine intended for issue in the dried form may be subjected to additional processes before dilution of the bulk material.

(3) Before making up a final bulk, it should be necessary to do preliminary tests on the single harvests for potency and for the presence of living extraneous micro-organisms.

13. *Tests for virus concentration on the final bulk.*—The final bulk shall pass the test for virus concentration described in para 25 of these standards.

14. *Tests for the presence of living extraneous micro-organisms in the final bulk prepared in the skin of living animals.*—The final bulk shall pass the following tests for the presence of living extraneous micro-organisms, unless these tests have already been passed by each of the single harvests represented in the final bulk.

15. *Tests for total bacterial content.*—(1) Suitable dilutions of the final bulk shall be made in a suitable diluent not deleterious to living bacteria. At least three 1-ml samples of each dilution shall be cultured on nutrient-broth-agar plates. The plates shall be incubated for 72 hours between 15°C and 22°C and for a further period of 48 hours between 35°C and 37°C. From the number of colonies appearing on the plates the number of living bacteria in 1-ml of the final bulk shall be calculated. If this number exceeds 500, the final bulk shall be subjected to further treatment or be discarded.

(2) Suitable control plates containing higher dilutions of the final bulk shall be included in this test in order to make sure that the number of colonies appearing on the test plates has not been influenced by the inhibitory action of any preservative present in the final bulk.

16. *Test for the presence of Escherichia Coli.*—At least three 1-ml. samples of a 1:100 dilution of the final bulk shall be cultured on plates of a medium suitable for differentiating *E. coli* from other bacteria. The plates shall be incubated for 48 hours at 35°C to 37°C. If *E. coli* is detected, the final bulk shall be subjected to further treatment or be discarded.

17. *Test for the presence of haemolytic streptococci, coagulase-positive staphylococci, or any other pathogenic micro-organisms which are known to be harmful if introduced into the human body by the process of vaccination.*—(1) At least three 1-ml samples of a 1:100 dilution of the final bulk shall be cultured on plates of blood agar. The plates shall be incubated for 48 hours at 35°C to 37°C and the colonies appearing shall be examined. (2) If any of the organisms mentioned are detected, the final bulk shall be subjected to further treatment or be discarded.

18. *Test for the presence of Bacillus anthracis.*—Any colony seen on any of the plates used in the test described in para 15, 16 and 17 which morphologically resembles *B. anthracis* shall be examined. If the organisms contained in the colony are non-motile, further tests for the cultural character of *B. anthracis* shall be made, including pathogenicity tests in suitable animals. If *B. anthracis* is found to be present, the final bulk shall be discarded.

19. *Test for the presence of Clostridium tetani and other pathogenic spore-forming anaerobes.*—(1) A total volume of not less than 1-ml of the final bulk, taken preferably from the depth of the bulk and not from the upper surface, shall be distributed in equal amounts into ten tubes, each containing not less than 10 ml. of a medium suitable for the growth of anaerobic micro-organisms. The tubes shall be held at 65°C for one hour in order to reduce the content of non-spore-forming organisms, after which they shall be incubated for at least one week between 35°C and 37°C.

(2) From every tube showing growth, sub-cultures shall be made on to plates of a suitable medium which shall be incubated anaerobically at the same temperature. All anaerobic colonies shall be examined and identified and if *Cl. tetani* or other pathogenic spore-forming anaerobes are present the final bulk shall be discarded.

(3) Organisms resembling pathogenic *Clostridia* found in the tube culture from which the sub-culture was made may be tested for pathogenicity by inoculation into animals as follows. Groups of not less than two guineapigs and five mice are used for each tube culture to be tested. 0.5 ml of the cultures is mixed with 0.1 ml of a freshly prepared 4 per cent solution of calcium chloride and injected intramuscularly into each of the guinea-pigs; 0.2 ml of the cultures mixed with 0.1 ml of this calcium chloride solution are injected intramuscularly into each of the mice. The animals are observed for one week. If any animal develops symptoms of tetanus, or if any animal dies as a result of infection with spore-forming anaerobes, the final bulk should be discarded.

(4) If other methods are used for this test, they should have been demonstrated, to the satisfaction of the licensing authority to be at least equally effective for detecting the presence of *Cl. tetani* and other pathogenic spore-forming anaerobes.

20. *Test for bacteriological sterility of the final bulk prepared in chick embryos or in tissue cultures.*—Each final bulk shall be tested for bacterial sterility according to the requirements given in the Indian Pharmacopoeia for the time being. If growth appears in any of the cultures the final bulk shall be discarded or the test repeated. The final bulk shall be discarded if the same type of organism appears in more than one test, but no final bulk shall be passed unless the final test shows no growth throughout.

Filling and Containers

21. *Filling rooms.*—Filling shall be performed in rooms reserved for this purpose. These shall be sterile rooms equipped specifically for transferring measured quantities of finished biological substances from bulk containers to the final containers. Strict dust control measures and aseptic techniques shall be enforced to ensure that the product is not contaminated during the filling process.

22. *Filling procedures.*—(1) Filling operations shall be conducted in such a way as to avoid any contamination or alteration of the product. They shall take place in areas that are completely separate from those in which living micro-organisms, including viruses, are handled.

(2) The filling process should be checked at least twice each year at the end of a working day by filling not less than 500 ampoules with a nutrient medium containing no antibiotics or bacteriostatic substances and incubating the complete batch of filled ampoules. Not more than 1 per cent of the ampoules filled in this way should show signs of contamination and all contaminants should be identified.

(3) All containers of the final vaccine shall be shown to be sterile before filling and shall be made of a material demonstrated, to the satisfaction of the licensing Authority, to have no deleterious effect on the vaccine.

(4) Containers of dried vaccine shall be hermetically sealed under vacuum or after filling with pure, dry, oxygen free nitrogen or any other gas not deleterious to the vaccine.

(5) All hermetically sealed containers shall be tested for leaks after sealing. All defective containers shall be discarded.

(6) Single and multiple-dose containers may be used. Each container of dry vaccine should be issued together with an ampoule of sterile reconstituting fluid. This fluid may contain glycerol and/or some suitable antiseptic substance. The containers should be issued in a form that renders the process of reconstitution as simple as possible.

5. Control Tests on Final Product.

23. *Identity test.*—(1) An identity test shall be performed on at least one labelled container from each filling lot by appropriate methods.

(2) The test for virus concentration as described in para 25 may serve as an identity test.

(3) A test may also be made in the scarified skin of rabbits. Suitable dilutions of vaccine are applied on scarified areas of skin. After four to seven days the vaccine should produce lesions characteristic of vaccinia.

24. *Tests for virus concentration on vaccine in final containers.*—(1) A test for virus concentration shall be made on each filling lot in accordance with the requirements described in para 25. Dried vaccine shall be reconstituted to the form in which it is to be used for human inoculation before the test is made.

(2) Tests should be done in parallel with a reference vaccine which has been calibrated against the International Reference Preparation of Smallpox Vaccine.

25. *Test for virus concentration in membrane of chick embryos.*—At least ten chick embryos, each of about 12 days' incubation, shall be divided into two equal groups. To the chorio-allantoic membrane of each embryo of the first group 0.1 ml or 0.2 ml of a suitable dilution of the vaccine shall be applied. To the membrane of each of the second group of embryos 0.1 ml or 0.2 ml of another suitable dilution of the vaccine shall be applied. After the optimal time of incubation of the total number of discrete specific lesions shall be counted on the membrane of each embryo. The dilutions shall be so chosen that the membranes of at least one of the groups yield countable numbers of lesions exceeding ten per membrane. From the number of lesions counted in this group and from the dilution and volumes used, the number of pock-forming units in one ml of the undiluted vaccine shall be calculated. This number shall exceed 1×10^8 .

26. *Other tests.*—Tests for virus concentration in the scarified skin of rabbits shall also be used provided it has been shown that the results correlate with those obtained using the membranes of chick embryos.

27. *Tests for the presence of extraneous living micro-organisms in the vaccine in final containers.*—Not less than four final containers (or not less than 10 if single-dose containers) giving a total pooled volume of not less than 0.5 ml shall be taken at random from each filling lot in such a manner that all stages of the filling from the bulk container shall be represented. Dried vaccine shall be reconstituted to the form in which it is to be used in human inoculation. The vaccine thus collected shall pass the test described in paras 15 and 20, whichever is applicable.

28. *Innocuity tests.*—Each filling lot shall be tested for abnormal toxicity by appropriate tests involving injection into rabbits. The tests shall be approved by the Licensing Authority. Mice and guinea-pigs may also be used for this tests.

29. *Heat-resistance test on dried vaccine.*—At least one container of dried vaccine from each filling lot shall be incubated at a temperature of not less than 37°C for not less than 4 weeks and tested for virus concentration. The vaccine passes the test if the requirements described in para 25 are fulfilled and at least one tenth of the virus concentration is retained.

30. *Preservatives and other substances added.*—No antibiotics shall be added to Smallpox Vaccine. If the liquid vaccine or reconstituted dried vaccine contains preservatives or other added substances such substances shall have been shown, to the satisfaction of the licensing authority, to have no deleterious effect on the product in the amounts present and to cause no untoward reactions in vaccinated subjects. If phenol is present, its concentration shall not exceed 0.5 per cent. Further, the substance used shall fulfil the requirements of the Indian Pharmacopoeia.

Miscellaneous

31. *Records.*—Records shall be permanent and clearly indicate all steps in processing, testing, filling and distribution. Written records shall be kept of all tests irrespective of their results. The records shall be maintained in a manner approved by the Licensing Authority. The records shall be retained throughout the period a lot or a batch of the vaccine has been given a date of expiry and be available at all times for inspection by the Inspector.

32. *Samples.*—Records shall be maintained of the complete passage history of all cultures kept by the manufacturer. The cultures shall be labelled and stored in a safe, orderly manner.

33. *Labelling.*—(1) Subject to the other provisions of these Rules:

(a) the label on the container shall show the following, namely:—

(i) the name of the vaccine (*i.e.* the international name and/or the proper name);

- (ii) the name and address of the manufacturer;
- (iii) the Batch number or the lot number;
- (iv) the net content;
- (v) the content of active ingredients;
- (vi) the recommended dose and route of administration;
- (vii) the conditions of storage and the date of expiry.

(b) the label on the package shall, in addition to the information shown on the label on the container, show the following, namely:—

- (i) the nature and amount of any preservative or added substance present in the Vaccine;
- (ii) a description of any substance likely to cause adverse reaction.

(2) The following additional information shall be given in the leaflet accompanying the package namely:—

- (a) the tissue or animal in which the vaccine was prepared.
- (b) any antibiotics used in the preparation of the vaccine (except such antibiotics as may have been applied to the skin of inoculated animals and removed before harvesting);

(3) If the vaccine is in the dried form, a statement that, after rehydration of the dried vaccine, the vaccine shall be used within 24 hours or within 7 days if it can be stored under conditions in which potency and sterility can be maintained.

(4) Instructions for the use of dried vaccine when issued in a container hermetically sealed under vacuum should specify the precautions to be taken when opening a container in order to avoid dispersion of the vaccine into the surroundings.

34. *Storage conditions.*—Before being distributed by the manufacturing establishment, or before being issued from a depot for the maintenance of reserves of vaccine, all liquid vaccines in their final containers shall be kept constantly at a temperature, below— 10°C, and all dried vaccines in their final containers at a temperature below + 10°C.

35. *Expiry date.*—The date after which liquid vaccine may not be used shall not be more than 12 months after passing the last test for virus concentration. The date after which dried vaccine may not be used shall be not more than 36 months after passing the last test for virus concentration. The expiry date shall not, however, be more than three months for liquid vaccine or more than twelve months for dried vaccine from the date on which the vaccine was issued by the manufacturer."

[No. F.1-3/68-D.]

L. K. MURTHY, Under Secy.

(Department of Health & Urban Development)

New Delhi, the 30th December 1968

S.O. 128.—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Services (Medical Attendance) Rules, 1944, namely:—

1. (1) These rules may be called the Central Services (Medical Attendance) Amendment Rules, 1968.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Central Services (Medical Attendance) Rules, 1944, in rule 2, in clause (a), for the words "Authorised Medical Attendant" means—, the following shall be substituted, namely:—

"Authorised Medical Attendant" means,—

(A) in respect of any Government servant or any class or classes of Government servants in any station, a medical officer, whether under the employ

of the Central Government or not, appointed by the Central Government to be the Authorised Medical Attendant in respect of that Government servant or class or classes of Government servants in that station:

Provided that before so appointing a medical officer under the employ of the Government of a State or the Administrator, of a Union territory, that Government or the Administrator, as the case may be, shall be consulted;

(B) where no medical officer is appointed as aforesaid,—

[No. F.29-79/68-MA.]

R. MURTHI, Under Secy.

MINISTRY OF IRRIGATION AND POWER

CORRIGENDA

New Delhi, the 31st December 1968

S.O. 129.—In the Order published with the Notification of the Government of India in the Ministry of Irrigation and Power No. S.O. 4252 at page 5462 of Part II, Section 3(ii) of the Gazette of India, dated the 30th November, 1968, the following correction may be carried out:—

- (i) Page 5462: The line 30 reading "The 3.3 KV supply to be flexible cable shall be provided with earth leakage protection" may be substituted by "The 3.3 KV supply to the flexible cable shall be provided with earth leakage protection".

[No. EL.II.6(2)/63.]

S.O. 130.—In the Order published with Notification of the Government of India in the Ministry of Irrigation and Power No. S.O. 4416 at page 5624 of Part II, Section 3(ii) of the Gazette of India, dated the 14th December, 1968, the following correction may be carried out:—

- (i) Page 5624: The line 18 reading "one length of 200 Metres, 4 core, 3.3 KV, 91/0.018" A.T.C. wire VIR insulated, 7/0.028" C.S. standard....." may be substituted by "One length of 200 Metres, 4 core 3.3 K.V., 91/0.018" A.T.C. wire VIR insulated, 7/0.028" C.S. standard.....".

[No. EL.II.6(2)/68.]

M. RAMANATHAN,
Deputy Director (Power).

MINISTRY OF EDUCATION

(Cultural Activities Division I)

CAI (I) Section

ARCHAEOLOGY

New Delhi, the 26th December 1968

S.O. 131.—Whereas the Central Government is of opinion that the ancient and historical monuments specified in the Schedule hereto annexed have ceased to be of national importance;

Now, therefore, in exercise of the powers conferred by section 35 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), the Central Government hereby declares that the ancient and historical monuments aforesaid have ceased to be of national importance for the purposes of the said Act.

‘THE SCHEDULE’

Serial No.	State	District	Locality	Name of anient and historical monument
1	Gujarat	Ahmedabad	Ahmedabad	Dutch tombs at the Kankaria Tank.
2	"	"	"	Ibrahim Sayyid's Masjid in Rajpur Hirpur
3	"	"	"	Miyan Khan Jehan's Masjid.
4	"	Mehsana	Kamboi	Chandreshwar Mahadev temple.
5	"	"	Mandrapur	Dugdeshwar Mahadev temple and Vav.
6	"	"	Patan	Khan Sarovar with inlet sluices and carved stones.
7	"	Panch Mahal	Champaner	Kasbin Talao with flight of steps and stone minar on its banks.
8	"	"	"	Large step well on the right side of the road leading to the top of Pavagadh (Geba! Shah's well).
9	"	"	"	Masjid in ruins with mohrab butteresses and high plinth on the right of the path leading up the hill near Dharamsala.
10	"	"	"	Three guns near Machi.
11	"	"	Wadatalao	Khajuri Masjid.

[No. F.4/17/67-CAI(I).]

S.O. 132.—Whereas the Central Government is of opinion that the ancient and historical monument specified in the Schedule to this notifications has ceased to be of national importance;

Now, therefore, in exercise of the powers conferred by section 35 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), the Central Government hereby declares that the monument aforesaid has ceased to be of national importance for the purposes of the said Act.

‘THE SCHEDULE’

Serial No.	State	District	Locality	Name of monument	Protection Notification No. & Date.
1	2	3	4	5	6
1	Kerala	Quilon	Tangasseri	Remains of old Tangasseri Fort	MD, 215. 8-12-1920 MD, 36. 20-1-1926

[No. F.4/2/68-CAI(D).]

P. GANGULEE,
Dy. Secy

MINISTRY OF LABOUR, EMPLOYMENT AND REHABILITATION**(Department of Labour and Employment)***New Delhi, the 28th December 1968*

S.O. 133.—In exercise of the powers conferred by sub-section (1) of section 4 of the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948), the Central Government hereby makes the following Scheme for the Port of Visakhapatnam, the same having been previously published as required by the said sub-section, namely :—

**THE VISAKHAPATNAM UNREGISTERED DOCK WORKERS
(REGULATION OF EMPLOYMENT) SCHEME, 1968.**

1. Short title.—This Scheme may be called the Visakhapatnam Unregistered Dock Workers (Regulation of Employment) Scheme, 1968 (hereinafter referred to as the "Scheme").

2. Objects, application and commencement.—(1) The objects of the Scheme are to regulate the employment of the dock workers to whom this Scheme applies and to ensure efficient performance of work by the said workers.

(2) The Scheme relates to the Port of Visakhapatnam and applies to the dock workers of the classes specified in the Schedule and to the employers of such dock workers, but does not apply to,—

- (a) workers engaged in any class or description of work carried out in workshops or in respect of sailing vessels or by ship's crew; or
- (b) workers engaged in any class or description of dock work carried out in relation to any ship of the Indian Navy.

Provided that the Scheme shall not apply to any dock worker or employer unless he is listed as such under the Scheme.

(3) It shall come into force on the date of its publication in the Official Gazette.

3. Definitions.—In this Scheme, unless there is anything repugnant in the subject or context—

- (a) "Act" means the Dock Workers (Regulation of Employment) Act, 1948 (9 of 1948);
- (b) "Administrative Body" means the Administrative Body appointed under clause 4 of the Scheme;
- (c) "Board" means the Vizagapatnam Dock Labour Board constituted under the Act;
- (d) "Chairman" and "Deputy Chairman" mean the Chairman and Deputy Chairman of the Board;
- (e) "Committee" means a committee appointed under clause 14;
- (f) "daily worker" means a dock worker who is not a monthly worker;
- (g) "dock work" means work ordinarily performed by dock workers of the classes to which this Scheme applies;
- (h) "dock employer" means the person and/or firm by whom a dock worker to whom this Scheme applies is employed or is to be employed;
- (i) "Personnel Officer" and "Labour Officer" mean the officers appointed as such under clause 5 or clause 13 of this Scheme;
- (j) "Listed employer" means a dock employer listed by the Board under clause 15 and includes for the purpose of clause 22 an authorised agent of such employer;
- (k) "listed worker" means a dock worker listed under clause 16;
- (l) "vessel" means an ocean-going vessel or ship whose gross registered tonnage is not less than 350 tons.

4. Administrative Body.—(1) The Central Government may, by notification in the Official Gazette, appoint an association or body consisting of such employers of dock workers as the Central Government may nominate in this behalf to be the Administrative Body for the purpose of carrying out the functions assigned to it under the Scheme. If no such Administrative Body is appointed, the Deputy Chairman shall carry out the functions of the Administrative Body.

(2) The Administrative Body shall, without prejudice to the powers of the Board, Chairman and Deputy Chairman and subject to the provisions of clause 9 carry out the day-to-day administration of the Scheme as assigned to it hereunder.

(3) The Central Government may for sufficient cause remove any Administrative Body appointed under sub-clause (1):

Provided that the Administrative Body shall not be removed unless it has been given a reasonable opportunity of being heard.

(4) If the Deputy Chairman carries out the functions of the Administrative Body, he may be assisted by an Administrative Superintendent in the discharge of his functions under clause 10.

5. Appointment of officers and other staff.—The Board may appoint a Personnel Officer and other officers and servants as it deems necessary and pay them such salaries and allowances and prescribe such terms and conditions of service as it deems fit:

Provided that no post the maximum salary of which exclusive of allowance is rupees eight hundred and above per mensem shall be created and no appointment to such post shall be made by the Board except with the previous approval of the Central Government:

Provided further that the sanction of the Central Government shall not be necessary to any appointment in a leave vacancy of a duration of not more than three months.

6. Functions of the Board.—The Board may, with a view to furthering the objects of the Scheme, take such measures as it may consider desirable including measures for—

- (a) ensuring an adequate supply and full and proper utilisation of the listed dock workers for the purpose of facilitating the rapid and economic turnround of vessels and the speedy transit of goods through the port;
- (b) regulating the recruitment and entry into and the discharge from the Scheme of dock workers and the allocation of listed dock workers to listed employers;
- (c) determining and keeping under review, in consultation with the Administrative Body the number of listed employers and listed dock workers from time to time on the register or record and the increase or reduction to be made in the numbers in any such registers or records;
- (d) keeping, adjusting and maintaining the employers' registers, entering or re-entering therein the name of any dock employer and where circumstances so require, removing from such register the name of any listed dock employer, either at his own request or in accordance with the provisions of the Scheme;
- (e) keeping, adjusting and maintaining from time to time such registers or records, as may be necessary, of dock workers, including any registers or records of dock workers who are temporarily not available for dock work and whose absence has been approved by the Administrative Body and, where circumstances so require, removing from registers or records the name of any listed dock worker either at his own request or in accordance with the provisions of the Scheme;
- (f) the grouping or regrouping of all listed dock workers into such groups as may be determined by the Board after consultation with the Administrative Body and thereafter reviewing the grouping of any listed dock worker on the application of the Administrative Body or of the listed dock worker;
- (g) making provision for the training and welfare of listed dock workers including medical benefits in so far as such provision does not exist apart from the Scheme;
- (h) levying and recovering from listed employers contributions in respect of the expenses of the Scheme;
- (i) making provision for health and safety measures in places where dock workers are employed in so far as such provision does not exist apart from the Scheme;
- (j) maintaining and administering the Dock Workers' Welfare Fund and recovering from all listed employers contributions towards the Fund in accordance with the rules of the Fund that may be framed under the Scheme;
- (k) maintaining and administering a provident fund and a gratuity fund for listed workers in the pool;

- (i) borrowing or raising money and issuing debentures or other securities and, for the purpose of securing any debt or obligation mortgaging or charging all or any part of the property of the Board.

7. Responsibilities and duties of the Board in meeting.—The Board in meeting shall be responsible for dealing with all matters of policy and in particular to—

- (a) fix the number of dock workers to be listed under various categories;
- (b) increase or decrease the number of workers in any category on the register or record from time to time as may be necessary after a periodical review of the registers and anticipated requirements;
- (c) sanction the temporary listing of a specified number of workers in any category for a specified period;
- (d) consider listing of new employers on the recommendations of the Chairman;
- (e) prescribe forms, records, registers, statements and the like required to be maintained under the scheme;
- (f) determine the wages in relation to the actual output of work pertaining to the categories of listed workers in different stages and also their allowances and other conditions of service;
- (g) fix the rate of administrative and other charges under clause 22;
- (h) fix the rate of contribution to be made by listed employers to the Dock Workers Welfare Fund;
- (i) appoint, abolish or reconstitute Committees under clause 14;
- (j) sanction the annual budget;
- (k) sanction subject to the provisions of clause 9(1) (h) the creation of posts and make appointments to such posts;
- (l) make recommendations to the Central Government about changes in the Schedule;
- (m) make recommendations to the Central Government about any modifications in the Scheme;
- (n) endeavour to settle disputes about which a request for adjudication has been made to the Central Government by the parties concerned and report to the Government the results of such endeavours;
- (o) discuss statistics of output of labour and record its observations and directions; and
- (p) sanction the opening of accounts in such scheduled Banks as it may direct and the operation of such accounts by such persons as the Board may from time to time direct.

8. Annual Estimates.—The Chairman shall, at a special meeting to be held before the end of February in each year, lay before the Board the annual budget as received from the Administrative Body for the year commencing on the first day of April then next ensuing in such detail and form as the Board may, from time to time, prescribe. The Board shall consider the estimates so presented to it and shall, within four weeks of its presentation sanction the same either unaltered or subject to such alterations as it may deem fit.

9. Responsibilities and duties of Chairman.—(1) The Chairman shall have full administrative and executive powers to deal with all matters relating to the day-to-day administration of the Scheme and in particular—

- (a) to ensure that the decisions of the Board in regard to the adjustment of the workers' registers are carried out expeditiously;
- (b) to supervise and control the working of the Administrative Body and to take suitable steps if any irregularities are detected by him or brought to his notice;
- (c) to ensure that proper and adequate supervision is provided by the listed employers over the workers employed at their places of work;
- (d) to ensure that the provisions of the Scheme in regard to transfer and promotion of workers are carried out;
- (e) to constitute Medical Boards when required;
- (f) to ensure that conditions, laid down in the Scheme, for the listing of employers are complied with by them;

- (g) to ensure that all forms, registers, returns and documents, prescribed under the Scheme, are properly maintained;
- (h) to sanction the creation of posts the maximum salary of which exclusive of allowances is upto rupees six hundred per month and to make appointments to such posts;
- (i) to take disciplinary action against listed dock workers and employers in accordance with the provisions of the Scheme;
- (j) to allow relaxation in the maximum number of shifts per worker per week or per month, and to report such cases to the Board;
- (k) to declare that there has been a 'go-slow' and to take action as authorised under the scheme;
- (l) to declare a 'state of emergency' and to take action as authorised under the Scheme;
- (m) to make a report, when necessary to the Central Government under rule 5 of the Dock Workers (Regulation of Employment) Rules, 1962;
- (n) to sanction the transfer of a monthly worker to the reserve pool at the request of the employer or the dock worker, as provided for in the Scheme;
- (o) to deal with appeals under clauses 33 and 34;
- (p) to discharge all other duties and responsibilities specifically vested in the Chairman under the Scheme.

(2) The Chairman may delegate in writing to the Deputy Chairman any of the functions under sub-clause (1).

10. Responsibilities and duties of the Deputy Chairman.—The Deputy Chairman shall assist the Chairman in the discharge of his functions and, in particular, shall—

- (a) discharge all functions relating to disciplinary action against listed employers and dock workers to the extent permitted under clause 32;
- (b) function as Chairman of Committees of the Board to which he may nominate a member;
- (c) preside over the meetings of the Board in the absence of the Chairman;
- (d) carry out the function of the Administrative Body if there is no Administrative Body appointed under clause 4;
- (e) exercise such other functions as are delegated to him by the Chairman under clause 9.

11. Functions of the Personnel Officer.—The Personnel Officer shall assist the Deputy Chairman, shall carry out such functions as may be delegated to him by the Deputy Chairman and shall, in particular, carry out the functions vested in him under clause 32.

12. Functions of the Administrative Body.—Without prejudice to the powers and Functions of the Board, the Chairman and the Deputy Chairman, the Administrative Body shall be responsible for the administration of the Scheme and shall in particular be responsible for—

- (a) keeping, adjusting and maintaining the employers' list entering or re-entering therein the name of any dock employer and, where circumstances so require, removing from the list the name of any listed employer either at his own request or in accordance with the provisions of the Scheme;
- (b) keeping, adjusting and maintaining from time to time such lists, registers or records as may be necessary, of dock workers including any lists, registers or records of dock workers who are temporarily not available for dock work and whose absence has been approved by the Administrative Body and where circumstances so require removing from any register, list or record the name of any listed dock worker either at his own request or in accordance with the provisions of the Scheme;
- (c) the employment and control of listed dock workers available for work when they are not otherwise employed in accordance with the Scheme;
- (d) the grouping or re-grouping of listed dock workers in accordance with the instructions received from the Board in such groups as may be determined by the Board;

- (e) the allocation of listed dock workers in each group who are available for work to listed employers and for this purpose the Administrative Body shall—
 - (i) be deemed to act as an agent for the employer,
 - (ii) make the fullest possible use of listed dock workers in each group,
 - (iii) keep the record of attendance at call stands or control points of listed dock workers,
 - (iv) provide for the maintenance of the records of employment and earnings,
 - (v) allocate listed dock workers in accordance with clause 18,
 - (vi) make necessary entries in the Attendance and Wage Cards of the listed dock workers in the pool;
- (f) (i) the collection of administrative and other charges, contribution to the Dock Workers Welfare Fund or any other contribution from the listed employers as may be prescribed under the Scheme;
- (ii) the collection of the listed dock workers' contribution to the Provident Fund, Insurance Fund or any other Fund which may be constituted under the Scheme;
- (iii) the payment as agent of the listed employer to each daily worker of all earnings properly due to the dock worker from the employer and the payment to such workers of all monies payable by the Board to those workers in accordance with the provisions of the Scheme;
- (g) appointing, subject to the budget provision, such officers and servants from time to time as may be necessary;

Provided that appointment to posts the maximum salary of which exclusive of allowances is upto rupees three hundred per month shall be subject to clauses 7(k) or 9(1)(h), as the case may be;

- (h) making provision for training of workers as it may consider necessary;
- (i) the keeping of proper accounts of the cost of operating the Scheme and of all receipts and expenses under it and making and submitting to the Board an annual report and audited balance-sheet;
- (j) the framing of the budget annually, submitting the same to the Board on or before the fifteenth day of February in each year and getting it approved by the Board;
- (k) maintaining complete service records of all listed dock workers covered under the Schedule; and
- (l) such other functions as may from time to time subject to the provisions of the Scheme, be assigned to it by the Board, the Chairman or the Deputy Chairman.

13. Labour Officer.—The Administrative Body shall appoint a Labour Officer with the approval of the Board, who shall carry out such functions as may be assigned to him by that Body consistent with the provisions of the Schemes and shall, in particular, carry out the functions vested in him under clause 32.

14. Committees.—The Board may appoint one or more Committees composed of such representatives of dock employers and dock workers to whom this Scheme applies and such other person or persons as may be nominated by the Board to facilitate compliance with or implementation of the provisions of this Scheme and may entrust to such Committee or Committees such of its functions as it may deem fit. The Board may dissolve or reconstitute such Committee or Committees from time to time as it may deem.

15. Listing of employers of dock workers.—(1) The Board shall maintain a list of employers of dock workers to whom this Scheme applies;

(2) Every person, who is an employer of dock workers to whom this Scheme applies on the date of commencement of the Scheme, and who applies to the Board in this behalf on or before such date as may be fixed by the Board for this purpose, shall be entitled to be listed under this Scheme;

(3) The Board may, if it considers expedient so to do, list employers other than those covered by sub-clause (2);

(4) Where the Board refuses to list an employer, it shall communicate to the person concerned a copy of the order together with the reasons therefor;

(5) Notwithstanding any other provision of this Scheme, the Board-in-meeting may direct the removal of the name of a listed employer who has not transacted any work for two consecutive years.

Provided that before giving any such direction, the Board shall give the employer an opportunity of showing cause why the proposed direction should not be issued;

(6) Notwithstanding anything contained in this clause the following classes of persons shall not be eligible for being listed as employers under this Scheme namely:—

- (a) persons who are not citizens of India,
- (b) firms, one or more partners of which is or are, not citizen or citizens of India, and
- (c) companies the majority of the shareholders whereof are not citizens of India.

16. Listing of dock workers.—(1) Any dock worker, who has been in the employment of an employer to whom this Scheme applies and has worked under him for such number of days or shifts during such period as may be prescribed by the Board, shall subject to the following conditions be eligible for being listed, namely:—

- (i) The number of workers of each class to be selected for listing shall not exceed the number which the Board may determine from time to time. Selection for listing shall be made as far as possible, on the basis of seniority as determined by the length of service rendered by a worker or on such other basis as the Board may determine, provided that such worker shall be medically fit and shall not be more than 60 years of age;

Provided further that a dock worker who is found medically unfit temporarily may be listed provisionally subject to the condition, that—

- (a) the ailment leading to temporary unfitness is declared as being curable within a reasonable period;
- (b) the period of provisional listing shall not exceed six months unless an extension is granted by the Board; and
- (c) if after the period or extended period of provisional listing the worker is still found unfit, his listing shall not be renewed.

- (ii) Only Indian citizens shall be eligible for being listed.

(2) Workers shall be listed under this Scheme in accordance with the following procedure, namely:—

- (i) Each eligible dock worker shall apply to the Board through his employer on or before such date as may be fixed by the Board or any Committee appointed under clause 14 for the purpose. The application shall be submitted in duplicate in the form prescribed by the Board, and shall be accompanied by three copies of passport size photograph of the worker concerned, the cost of which shall be borne by him.
- (ii) A listed employer shall not refuse to forward the application of a worker who has been in his employment and has worked under him for such number of days or shifts during such period as may be specified by the Board under sub-clause (1):

Provided that if any question arises whether or not a worker has been in the employment of his employer and has worked under him for such number of days or shifts as may be prescribed by the Board, it shall be referred to such officer, authority or committee as the Board may specify and the decision of such officer, authority or committee, as the case may be, shall be final.

- (iii) The period for which a worker of a class specified in the Schedule has served on work relatable to that class under a particular employer shall as far as possible be recorded on the basis of payment of wages made to the worker previously, either directly by the employer or through any of the employer's agents.
- (iv) While forwarding an application of a dock worker the employer shall if he does not recommend the application state the reasons for which he does not recommend the application.
- (v) Every worker shall pay to the Board a 'listing fee' of twenty-five paise on his name being listed.
- (vi) If the application is in order, the Board shall enter the name of the worker in the list of workers and retain one copy each of the application and the

photograph for record and return the other copy of the application with a photograph affixed on it together with a photo-identity card to the worker concerned direct or to the listed employer through whom the application has been received, who shall hand over the same to the worker concerned.

(3) Notwithstanding any other provision of this Scheme, where the Board is of opinion that a dock worker has secured his listing by furnishing false information in his application or by withholding any information required therein, or where it appears that a worker has been listed improperly or incorrectly, the Board may direct the removal of his name from the list:

Provided that before giving any such direction, the Board shall give him an opportunity of showing cause why the proposed direction should not be issued.

(4) Notwithstanding any other provision of this Scheme, the Board-in-meeting may by order direct the removal permanently or for such period as may be specified in the order, of the name of a listed worker who does not make himself available for work for any length of time as the Board may decide:

Provided that before giving any such direction the Board shall give such listed worker an opportunity to show cause why the proposed direction should not be issued.

(5) A copy of every order refusing to list a worker shall be communicated to him.

(6) Without prejudice to the provisions contained in sub-clause (c) of clause 12 the Board may also from time to time permit the listing of dock workers on a temporary basis through the Employment Exchange or otherwise as the Board may decide.

17. Classification of workers in the list.—(1) The Board shall arrange from time to time classification of workers by categories in the list and prepare and maintain a separate sub-list of workers for each of the categories or sub-categories referred to in sub-clause (2).

(2) For the time being the workers shall be divided into two broad categories as 'B' and 'C' and they shall be classified into sub-categories as specified below:—

Provided that on the expiry of one year from the date of enforcement of the Scheme, a review shall be undertaken to assess the desirability of recognizing the categories and/or improving the benefits attached to such categories.

Category 'B'

(1) Iron and Steel Handling Workers (Mechanical).

- (i) Tally Clerk.
- (ii) Maistry.
- (iii) Tindal.
- (iv) Carpenter.
- (v) Mazdoor.

(2) Mineral and Pig Iron Handling Workers.

- (i) Maistry.
- (ii) Mazdoor.

(3) Boat Handling Workers [Export General Cargo, Bulk Import Cargo (unhooking slings) temporarily landed cargo not handled by the Port Trust labour and import outside delivery cargo all handled in Lighters].

- (i) Maistry.
- (ii) Mazdoor.

(4) Deck sweepers/hatch cleaners.

- (i) Maistry.
- (ii) Mazdoor.

(5) Gunny Clerks.

(6) Supervisors/receipt clerks (employed by steamer agents, stevedores, shipping agents Clearing and Forwarding Agents and Mineral Handling employers).

Category 'C'

(1) Drums loading and unloading workers and workers employed by clearing and forwarding agents.

(i) Maistry.

(ii) Mazdoor.

(2) Bulk Rockphosphate Handling workers (including filling the bags), Bulk Sulphur Handling workers (including filling the bags), Bulk Rockphosphate and Sulphur slinging workers, bagged rockphosphate and bagged sulphur handling workers.

(i) Maistry.

(ii) Mazdoor.

(3) Casuals listed by the Mineral Wagon Unloading Pool.

(i) Maistry.

(ii) Mazdoor.

(4) Goods shed workers (tarpaulins and cargo handling), casuals listed by the Iron and Steel Handling pool and iron and steel handling Labour (Manual).

(i) Maistry.

(ii) Mazdoor.

(5) Sampling workers.

18. Pool of listed workers.—(1) Each sub-category of work shall constitute a pool of workers.

(2) The listed workers in each group shall be allotted work by rotation as far as practicable.

(3) Casual vacancies in categories of workers higher than mazdoors shall be filled by the panels maintained for such categories and the resultant vacancy in the lowest category shall be filled in a manner decided by the Board.

(4) The workers listed under the Scheme shall not be employed unless there is a demand for a particular sub-category or group. However, if there is need for work in a particular sub-category or group, workers of the said sub-category or group shall be employed to the exclusion of outside labour which does not include the ship's crew.

19. Employment in shifts.—(1) Workers shall be employed in shifts.

(2) A worker shall not ordinarily be employed in two consecutive shifts nor shall a worker be employed in two consecutive shifts on each of two successive days. In no case shall a worker be employed in three consecutive shifts.

(3) A worker in the pool shall not be employed for more than 8 shifts in a week or 30 shifts in a month.

(4) In special circumstances, the Chairman may relax temporarily the restrictions under sub-clause (3) to the extent necessary.

(5) Workers working in more shifts than one in a day shall be entitled to the normal rate of wages for work in each shift.

(6) Where work is carried on by a gang, the allotment of workers by rotation shall be by gangs.

20. Service records of listed Workers.—A service record for every listed worker shall be maintained by the Administrative Body in a form as may be prescribed by the Board which shall contain among other things the complete record of disciplinary actions taken against the worker, promotions, commendation for good work, etc.

21. Medical examination.—If the Administrative Body deems it necessary, a worker shall undergo at the cost of the Administrative Body, a medical examination by a Medical Officer appointed by the Chairman. If the worker is found permanently unfit, his name shall be removed from the list by the Administrative Body.

22. Obligations of listed employer.—(1) Every listed employer shall be bound by the provisions of the Scheme.

(2) Every listed employer shall pay to the Board such administrative charges as may be fixed by the Board from time to time.

(3) A listed employer shall not employ a worker other than a dock worker who has been allocated to him by the Administrative Body in accordance with the provisions of clause 12.

(4) A listed employer shall in accordance with arrangements made by the Administrative Body submit all available information of his current and future labour requirements.

(5) A listed employer shall pay to the Administrative Body in such manner and at such times as the Chairman may direct the amount by way of levy, administrative charges and other charges payable under sub-clause (2) and gross wages due to the dock workers.

(6) A listed employer shall keep such records as the Board may require, and shall produce to the Board or to such persons as may be designated by the Chairman upon reasonable notice all such records and any other documents of any kind relating to listed dock workers and to the work upon which they have been employed and furnish such information relating thereto as may be set out in any notice of direction issued by or on behalf of the Board.

(7) A listed employer shall not pay a listed worker anything in cash or in excess of the wages normally and actually due to the worker.

23. Obligations of listed worker.—(1) Each listed worker shall be deemed to have accepted the obligations of this Scheme.

(2) A listed dock worker shall not offer himself for employment with any other employer on any day on which he is offered employment by the Administrative Body.

(3) A listed dock worker in the pool who is available for work shall not engaged himself for employment under a listed employer unless he is allocated to that employer by the Administrative Body.

(4) A listed dock worker in the pool who is available for work shall carry out the directions of the Administrative Body and shall—

(a) report at such call stands or control points on such days and at such times as may be specified by the Administrative body;

(b) accept any employment in connection with dock work whether in the category or sub-category in which he has been listed or in any other category or sub-category for which he is considered suitable by the Administrative Body.

(5) A listed dock worker who is available for work when allocated by the Administrative Body for employment under a listed employer shall carry out his duties in accordance with the directions of such listed employer or his authorised representative or supervisor and the rules of the port or place where he is working.

24. Suspension of supply of listed workers.—If a listed employer fails to make payment due from him under clauses 12(f)(i) and, 22(5), or any other amount due and payable to the Board in any other capacity or account, within such time as may be prescribed by the Administrative Body, the Administrative Body shall serve notice on the employer to that effect that unless he pays his dues within three days from the date of receipt of the notice, the supply of listed workers to him shall be suspended on the expiry of the notice period. Thereupon, the Administrative Body shall suspend the supply of listed workers to the defaulting employer until he pays his dues.

25. Restriction on employment.—No person other than a listed employer shall employ any worker on dock work nor shall a listed employer engaged for employment or employ a worker on dock work unless that worker is a listed worker. If, however, on any occasion the Administrative Body considered it necessary to employ temporarily a worker other than a listed worker, it can do so after obtaining the prior approval of the Deputy Chairman and where this is not possible, shall report to the Deputy Chairman within 24 hours the full circumstances under which such workers were employed. The Deputy Chairman shall place before the Board-in-meeting at the earliest opportunity all such cases of temporary employment of workers other than listed workers approved by him.

26. Chairman to evolve Schemes.—(1) The Chairman may evolve a Scheme or Schemes of payment to the listed workers in relation to the actual output of their work. The Scheme or Schemes shall be considered by the Board in a meeting and, if adopted, shall be submitted to the Central Government for approval. Such a Scheme or Schemes shall come into force from a date which may be approved by the Central Government. Different dates may be fixed in respect of such Schemes governing different categories of listed workers.

(2) If any Scheme or Schemes evolved by the Chairman is not approved by the Board-in-meeting, the Chairman shall report the matter to the Central Government forwarding, at the same time, a copy of the Scheme or Schemes for the decision of the Government. The Central Government shall consider the Scheme or Schemes and the views of the members of the Board, and take such decision as may be appropriate. The decision of the Central Government shall be binding on the Board.

(3) Notwithstanding anything contained in sub-clauses (1) and (2) the Central Government may, determine all or any of the matters referred to in the said sub-clauses on the recommendation of any body set up by it and any such decision of the Central Government shall be final and binding on the Board.

27. **Holidays:**—Each listed worker shall be entitled in a year to 5 holidays with pay of such rates as may be prescribed by the Board.

28. **Attendance allowance.**—Subject to other conditions of the Scheme, a worker in the pool in 'B' category who is available for work but for whom no work is found shall be paid attendance allowance at the rate of Rs. 1.75 ps. inclusive of dearness allowance per day for all the days during a calendar month he attended for work as directed by the Administrative Body provided that the Board may allow payment of attendance allowance at such higher rate not exceeding rupees two as it may deem necessary.

29. **Disappointment money:**—When a worker in the pool presents himself for work and for any reason the work for which he has attended cannot commence or proceed and no alternative work can be found for him and he is relieved within two hours of his attending for work, he shall be entitled to the disappointment money, equal to half the wage inclusive of dearness allowance appropriate to the category to which he belongs. A worker detained for more than two hours shall be paid full time rate wages inclusive of dearness allowance.

30. **Provident Fund and Gratuity.**—The listed workers in 'B' category shall be eligible for Contributory Provident Fund and Gratuity with effect from the date the Board may fix. The Board shall frame Rules for the purpose.

31. **Standing Orders:**—The Administrative Body shall frame the draft standing orders for certification under the provisions of the Industrial Employment (Standing Orders) Act, 1946 and before submission of the same to the certifying officer, shall submit it to the Deputy Chairman who will place before the Board along with his remarks for approval.

32. **Disciplinary procedure:**—(1) The personnel Officer on receipt of information, whether on complaint or otherwise that a listed employer has failed to carry out the provisions of this Scheme may after investigating the matter—

(i) give him a warning in writing; or

(ii) if in his opinion, a higher penalty is merited, report the case to the Deputy Chairman;

Provided that more than one breach of the provisions of the Scheme shall in any event be reported to the Deputy Chairman.

(2) The Deputy Chairman shall then cause such further investigation to be made as he may deem fit and take any of the following steps as regards that employer, that is to say, he may—

(a) Censure the employer and record the censure in his record sheet; or

(b) subject to the approval of the Board and after one month's notice in writing to the employer, direct that the name of the employer shall be removed from the list of employers for such period as may be determined by the Board or permanently if the Board so determines.

(3) A listed dock worker in the pool who fails to comply with any of the provisions of the Scheme, or commits any act of indiscipline or misconduct may be reported against in writing to the Labour Officer. The Labour Officer after investigating the matter may give him a warning in writing or suspend him for a period not exceeding seven days.

(4) Where, in a case reported to him under sub-clause (3) the Labour Officer is of opinion that the act of indiscipline or misconduct is so serious that the worker should not be allowed to work any longer, the Labour Officer may, pending investigation of the matter, suspend the worker for a period not exceeding seven days and report immediately to the Deputy Chairman, who after preliminary investigation of the matter

shall pass orders thereon whether the worker should, pending final orders remain suspended or not, provided that the total period of such suspension shall not exceed a period of three months.

(5) Where the Deputy Chairman comes to the decision that the order of suspension of the worker pending investigation into the charge of indiscipline or misconduct as the case may be, ought not to have been made, the worker shall be entitled to such payments from the Board in respect of the period of his suspension as the Administrative Body may certify that the worker would have received, had he not been suspended.

(6) Where in the opinion of the Labour Officer, higher punishment than that provided in sub-clause (3) is merited, he shall report the case to the Deputy Chairman.

(7) On receipt of the written report from the Labour Officer under sub-clause (6) or from the Administrative Body that a listed dock worker in the pool has failed to comply with any of the provisions of the Scheme or has committed an act of indiscipline or misconduct or has consistently failed to produce the standard output or has violated the provisions of the Scheme more than once or has been inefficient in any other manner the Deputy Chairman may make or cause to be made such further investigation as he may deem fit, and thereafter take any of the following steps, as regards the worker concerned, that is to say, he may impose any of the following penalties:

- (a) give him a warning in writing;
- (b) suspend him for a period not exceeding 3 months;
- (c) terminate his services after giving 14 days' notice; or
- (d) dismiss him.

(8) Before any action is taken under this clause the person concerned shall be given an opportunity to show cause why the proposed action should not be taken against him. A copy of the final order shall also be communicated to the persons concerned.

(9) The Administrative Body shall be informed simultaneously about the action taken under this clause.

33. Appeals by employers.—(1) A listed employer who is aggrieved by an order under clause 32 may appeal—

- (a) to the Deputy Chairman, if the order was made by the personnel Officer, or
- (b) to the Chairman if the order was made by the Deputy Chairman.

(2) A dock employer who has been refused listing under clause 15 may appeal to the Central Government.

(3) Every appeal referred to in sub-clauses (1) and (2) shall be in writing and preferred within 14 days of the receipt of the order appealed against and the order passed on such appeal shall be final:

Provided that the appellate authority may, for reasons to be recorded, admit an appeal preferred after the expiry of 14 days.

34. Appeals by workers.—(1) A listed worker in the pool, who is aggrieved by an order passed by the Labour Officer under clause 32(2) may appeal to the Deputy Chairman and when the original order has been passed by the Deputy Chairman the appeal can be preferred to the Chairman.

(2) A dock worker, who has been refused listing under clause 16 may appeal to the Board.

(3) Every appeal under sub-clauses (1) and (2) shall be in writing and preferred within 14 days of the receipt of the order appealed against and the order passed on such appeal shall be final:

Provided that the appellate authority may for reasons to be recorded, admit an appeal preferred after the expiry of 14 days.

(4) An appellant shall not be entitled to be represented by a legal practitioner before the appellate authority but he shall be entitled to be represented by a representative of the registered trade union of which he is a member or by a listed worker.

35. Penalties.—A contravention of clause 25 shall be punishable with fine not exceeding two hundred rupees in respect of a first contravention or five hundred rupees in respect of any subsequent contravention.

SCHEDULE

Classes of dock workers to whom the Scheme applies

Category 'B'

1. Iron and Steel Handling Workers (Mechanical)—
 - (i) Tally Clerk
 - (ii) Maistry
 - (iii) Tindal
 - (iv) Carpenter
 - (v) Mazdoor
2. Mineral and Pig Iron Handling Workers—
 - (i) Maistry
 - (ii) Mazdoor
3. Boat Handling Workers [Export General Gargo, Bulk Import Gargo (unhooking slings) temporarily landed cargo not handled by the Port Trust labour and import overside delivery cargo all handled in lighters]—
 - (i) Maistry
 - (ii) Mazdoor
4. Deck sweepers/hatch cleaners—
 - (i) Maistry
 - (ii) Mazdoor
5. Gunny Clerks
6. Supervisors/receipt clerks (employed by steamer agents, stevedores, shipping agents, Clearing and Forwarding Agents and Mineral Handling employers)---

Category 'C'

1. Drums loading and unloading workers and workers employed by clearing and forwarding agents---
 - (i) Maistry
 - (ii) Mazdoor
2. Bulk Rockphosphate Handling workers (including filling the bags), Bulk Sulphur Handling workers (including filling the bags), Bulk Rockphosphate and Sulphur slinging workers, bagged rockphosphate and bagged sulphur handling workers—
 - (i) Maistry
 - (ii) Mazdoor
3. Casuals listed by the Mineral Wagon Unloading Pool—
 - i) Maistry
 - (ii) Mazdoor
4. Goods shed workers (tarpaulins and cargo handling), casuals listed by the Iron and Steel Handling Pool and Iron and Steel Handling labour (manual)—
 - (i) Maistry
 - (ii) Mazdoor
5. Sampling workers.

[No. 56/11/68-Fac. II.]

New Delhi, the 3rd January 1969

S.O. 134.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Arbitrator in the industrial dispute between the employers in relation to Shipping Employers Federation, Visakhapatnam and their workmen, which was received by the Central Government on the 28th December, 1968.

In the matter of an arbitration agreement in the industrial dispute between the Shipping Employers' Federation, Visakhapatnam and the Dock Workers Union & Port Khalasis Union, Visakhapatnam under Section 10A of the Industrial Disputes Act, 1947 regarding iron & steel handling workers at Visakhapatnam Port.

ARBITRATION AWARD

PRESENT

Shri O. Mahcepathi, Deputy Chief Labour Commissioner (Central), New Delhi.

ARBITRATOR

Representing Employers—Shri D. Ramamohan Rao, Honorary Secretary, Shipping Employers' Federation, Main Road, Visakhapatnam.

Representing Workmen—1. Shri B.G.M.A. Narasinga Rao, President, Dock Workers Union, Gangulavari Street, Visakhapatnam.

2. Shri P. Manavallayya Naidu, President, Port Khalasis Union, Ramakrishna Street, Visakhapatnam.

By an arbitration agreement under Section 10A of the Industrial Disputes Act, 1947 (published in the Gazette of India as S.O. 1944 dated 25th May, 1968) reached between the Shipping Employers' Federation, Visakhapatnam and the Dock Workers' Union & Port Khalasis Union, Visakhapatnam, the following specific matters in dispute were referred to my arbitration:—

“(a) Whether the demand of the Dock Workers Union, Gangulavari Street, Visakhapatnam that some of the materials which are at present handled by the Iron & Steel Workers Pool should be handled by the manual handling workers is justified?

(b) If so, the materials and the types of work which should be handled by the manual handling workers?”

2. The arbitration agreement provided that I shall make my award within a period of four months or within such further time as is extended by mutual agreement between the parties in writing. As the parties could not submit their statements of claims in time, they had agreed to extend the period within which I shall give my award till the end of December, 1968.

3. On receipt of the arbitration agreement, I had requested the parties to file their statements of claims which they did only in August/September, 1968. After giving due notice to the parties, I heard them in person at Visakhapatnam on 19th November, 1968. On behalf of the Dock Workers Union, Shri Narasinga Rao both in his written statement and in oral submissions laid stress on the need for greater employment opportunities and better emoluments to the manual handling workers of the iron & steel materials and to absorb all these workers in the iron & steel workers' pool by abolishing arbitrary division of work. He also stated that the manual handling workers also work along with the crane workers on rails of long lengths, angles, pipes etc. (when the crane unloads them from the wagons), that these workers store the materials and stack them in neat piles of stacks by hand and that these workers have been working on pipes for a long time not only after they were unloaded by the crane but they were actually unloading them by themselves without the aid of cranes. He further stated that while the manual handling workers were starving for work, it was highly objectionable to recruit new hands—raw villagers—to work in the Pool instead of absorbing the already existing workmen of his union though they were termed as manual and that the so-called “crane workers” who were only “sixty” in the first instance were increased to 200 by successive recruitments of outsiders by the Shipping Employers' Federation at the instance of Port Khalasis Union, instead of absorbing the manual handling workers who were working on the same materials for over 15 years at the Port.

4. Shri P. M. Naidu of Port Khalasis Union on the other hand submitted that the case of merger of the manual handling workers into iron & steel workers' pool was not one of the issues referred for arbitration and that the proposed listing scheme for the dock workers at Visakhapatnam Port which is under active consideration of the Government has taken care of the aims of the Dock Workers Union since the Draft Scheme provides for the engagement of manual handling workers in mechanical handling for additional requirements after exhausting regular and casual mazdoors from the iron & steel workers' pool and vice-versa. He also submitted that it was the exclusive right of the iron & steel workers of the pool to handle all materials at all stages where the crane etc. is used, and

that it has been custom and practice of manual iron & steel workers to handle all iron & steel materials where any mechanical means like the cranes are not used at one stage or the other. He also stated that the Port Khalasis Union represents more than 45% of the present iron & steel workers at the Visakhapatnam Port and that they have equal responsibility towards the manual iron & steel workers of the Port. He denied that the manual handling workers were engaged on the handling of pipes in the past.

5. On behalf of the employers, Shri Ramamohan Rao, Hony. Secretary of the Shipping Employers' Federation both in his written statement and oral submissions stated that according to the records available with the employers and the iron & steel workers' pool authorities, "handling of steel pipes is always carried out by the iron & steel workers who belong to the Port Khalasis Union as cranes are used for such handling. Manual workers are employed only when no crane operation is involved in handling the consignments." He also mentioned that for every crane hook, they employ one tindal and five mazdoors from the iron & steel workers' pool. In the case of steel pipes, however, one extra mazdoor is engaged to facilitate the rolling of the pipes from the unloading point to the stack and that this extra mazdoor was always employed from the iron & steel workers' pool and at no time manual workers of the Dock Workers Union were employed for this purpose.

6. For the genesis of the dispute, it is necessary to examine the nature of employment of different categories of workers at Visakhapatnam Port which has its own peculiarities. Unlike in other Ports where general exchange of one type of labour for the other exists, there are different sets of workers for doing different kinds of jobs at Visakhapatnam Port. There are skip loading labour for loading manganese and iron ore etc. into the skips which are lifted either by cranes or winches and unloaded into the ship, mineral handling workers who unload ores from wagons, workers for export cargo handling, drums handling, boat handling, handling of iron & steel materials through mechanical means and separate set of workers for handling iron & steel materials by manual operations. The present dispute concerns those set of workers who handle iron & steel materials by mechanical means and those that handle such materials through manual operations. As early as 1959, a dispute arose between the Dock Workers Union and the Port Khalasis Union as to who should handle pig iron—whether it should be handled by iron & steel handling workers represented by the Port Khalasis Union or mineral handling workers represented by the Dock Workers Union. The dispute was referred by the parties to the arbitration of Shri R. Srinivasan, Traffic Manager of the Port who awarded that the mineral wagon unloading workers should handle the pig iron arriving in small slabs and ingots that could be handled by manual labour while pig iron arriving in slabs requiring the use of cranes should be handled by the workers who have experience in handling iron & steel. He had also suggested that "the existing workers employed by the Port and the clearing & forwarding agents in handling iron & steel should be registered by the Shipping Employers' Federation." It was thus a nucleus of a pool of iron & steel handling workers using cranes was formed by the Shipping Employers' Federation.

7. With the formation of Visakhapatnam Minerals Association, this pool was being managed by that Association and in March 1967 it consisted of the following:—

Maistries	3
Tally Clerks	11
Tindals	21
Carpenters	6
Carpenter Helpers	15
Registered Mazdoors	75
and	
Casual Markers	10

8. Because of the increasing demand, it is reported that 45 casual mazdoors were added to this Pool on 4th April, 1967. On a demand from the President, Port Khalasis Union, the Shipping Employers' Federation agreed through a memorandum of settlement dated 19th February, 1968 to separate the iron & steel handling workers pool from the Visakhapatnam Minerals Association and to operate the same and to recruit 45 casuals by adopting the following steps:—

"(a) To promote all eligible workers from the present casuals as regulars.

(b) The markers who are willing to work as mazdoors also will be promoted as regular workers and the remaining will continue to be casual markers. Markers who are promoted as regular will be given preferential employment as markers whenever there is work and markers' wages paid; otherwise they will be engaged as mazdoors and will be paid mazdoor wages.

It was agreed to engage mazdoors in the following order of priority:—

- (i) regular mazdoors
- (ii) carpenters
- (iii) carpenter helpers
- (iv) casual mazdoors (now to be promoted as regular)
- (v) markers
- (vi) casuals now to be listed."

In pursuance of this agreement, the Shipping Employers' Federation promoted the then existing 45 casuals as regular mazdoors and added 45 more casual labour w.e.f. 18th April, 1968.

9. The agreement just mentioned between the Shipping Employers' Federation and the Port Khalasis Union concerning the addition of casual mazdoors appears to have created a grievance with the Dock Workers Union who according to their letter written to the Shipping Employers' Federation agitated vigorously and protested by a stoppage of work by the manual iron & steel handling workers because they were not taken into the pool and some of the items of work which could have been entrusted to the manual handling workers were entrusted to the crane iron & steel handling pool etc. The union had also stated that "the addition of 45 more raw people to the crane pool when the manual handling workers were already working on this firm's job for the last 15 years is most unjust and against all norms of social justice and industrial employment."

10. Following the stoppage of work in March 1968, the demand of the Dock Workers Union "that the unloading of the pipes at present done by the iron & steel workers' pool should be given to the manual handling workers so far as the manual part of the work involved in it is concerned" was discussed at a meeting held on 23rd March, 1968 when the parties agreed to refer the specific matters in dispute now referred to me for arbitration. From the preamble, to the agreement of 23rd March, 1968, it would appear that the immediate dispute was in relation to the handling of pipes though the circumstances leading to the stoppage of work and the later correspondence indicate the attempt of the Dock Workers Union to get the manual handling workers into the iron & steel workers' pool.

11. Besides considering the statements of claims of the parties and hearing them personally at Visakhapatnam on 19th November, 1968, I also visited the work-spot in the Port in order to acquaint myself with the processes of actual handling of iron & steel materials. The iron & steel materials that are handled at the Port can be grouped into three as listed below:—

- (i) Those materials which are handled mainly through the means of cranes—Heavy structurals and machinery, ingots, slabs, blooms, joists, channels etc.
- (ii) Those materials involving operations by crane workers as well as manual workers—Billets, flats, fish-plates, M.S. rounds, rails, heavy machinery cases, etc.
- (iii) Those materials in dispute viz. pipes.

The materials in the first group are those which are too heavy to be stacked and arranged. All such materials are lifted by means of cranes from the wagons and dumped in the yard without any further attempt at stacking. For this purpose, only the iron & steel pool workers are engaged. The second group of materials are however neatly stacked by manual operations after they are unloaded from wagons by means of cranes to facilitate easy handling at the time of shipment and to save space. It is in the case of such further handling that the manual handling workers are normally employed. The above grouping was generally accepted by all the parties to the dispute. With regard to the third group viz. pipes, the Dock Workers Union claim that this work has been done by the manual handling workers while the same was denied both by the Port Khalasis Union and the employers. The handling of pipes, however, involves crane operations as well as manual operations. They are unloaded by means of cranes from wagons and when they are stacked, they are rolled by manual operation.

12. For purposes of handling the iron & steel materials by means of cranes, generally, one tindal and five mazdoors are employed per point—two mazdoor each for hooking and unhooking operations and one reliever. But in the case of pipes, according to employers, one extra mazdoor is supplied at each point, to facilitate the rolling of the pipes from the unloading point to the stacking point and this extra mazdoor is provided from the iron & steel handling workers' pool.

13. As indicated earlier, there is a clear demarcation and distinction between the 'crane' workers and 'manual' workers and whenever any materials are to be handled by means of manual operations the manual workers are employed. It would however appear that the rolling of pipes which is manually done was not entrusted to the manual workers. The reason for this was probably due to occasional arrivals of consignments of pipes and the low requirement of workers for manual operation. Having regard to the customs and practices obtaining in the Visakhapatnam Port and also because of the ostensibly low employment to the manual workers, I feel that all manual operations in the handling of iron and steel materials including those of pipes should be entrusted to the manual iron & steel handling workers.

14. With regard to the specific matters in dispute, Shri Narasinga Rao's claim was that all the materials which are at present handled by the iron & steel workers' pool should be allowed to be handled by the manual handling workers also by removing the distinction between the 'crane' workers and 'manual' workers and merging them into one pool. On behalf of the Port Khalasis Union, it was pointed out that this would be taken care of by the proposed listing scheme. The contention of Shri Narasinga Rao was, however, that in the draft Scheme the manual workers "(iron & steel handling labour manual)" are proposed to be listed separately and under category 'C' while the crane workers i.e. iron & steel handling workers (mechanical) will be listed under category 'B'. In the absence of authentic employment and earnings figures, it is difficult to say as to whether this distinction was not justified. Further, it is reported that these manual workers also handle other cargoes than iron & steel materials. It may, however, be stated that it is desirable to have one set of workers to handle all iron & steel materials both mechanically and manually. The Visakhapatnam Unregistered Dock Workers (Regulation of Employment) Scheme, 1968 provides for the listing of workers of each class on the basis of seniority and a review after one year of its working to assess the desirability of re-organising the categories etc. At that stage, it would be possible for the Dock Labour Board either to merge both these categories or to adjust the lists of iron & steel handling workers (mechanical) and iron & steel handling labour (manual). In either case, I am sure the manual workers would get their due share. For these reasons, I am unable to agree with Shri Narasinga Rao that all the materials should be allowed to be handled by the manual handling workers by merging them into the 'crane' pool straightaway. I would, however, direct that in view of the claims of manual workers who work side by side with the crane workers, they are complementary to each other and any additional requirements in any of these two categories should be drawn from the other category and not from outsiders.

15. As the specific matter in dispute referred to me mentions "some of the materials which are at present handled by the iron & steel workers' pool", I asked Shri Narasinga Rao to specify those "some of the materials". He submitted that it is very difficult to specify the materials that should be handled by the manual handling workers because of varied nature of items of work and the nature of trade that passes through the Port. In view of the fact that the present reference arose out of a dispute concerning the handling of pipes, I would consider that this was one of the materials the handling of which was in dispute. As already pointed out, all iron & steel materials which are capable of being handled by manual operations are being handled by the manual workers and those requiring the use of crane are handled by the crane workers. I should feel that this practice and custom should continue till one category of workers only come to handle both mechanically and manually. I have already directed in para. 13 that all manual operations in the handling of iron & steel materials including those of pipes should be handled by the manual iron & steel workers.

16. According to the information furnished by the parties at the time of hearing, there are 7 gangs of manual handling workers (each consisting of 15 workers and a Maistry). Besides the Dock Workers Union, the Port Khalasis Union also claims to represent a substantial number of them. As there is an iron & steel workers' pool already being operated by the Shipping Employers' Federation and as the finalisation of the Visakhapatnam Unregistered Dock Workers (Regulation of Employment) Scheme, 1968 may take some time, it is worthwhile that the manual handling workers also are listed and formed into a nucleus pool by the Shipping Employers Federation. This can form the basis for the listing of the workers under the Scheme just referred to. It would also enable the employers to draw manual handling workers in a regulated manner for the purpose of their engagement on those materials requiring manual operations. The listing of these workmen and formation of the pool of iron & steel handling labour (manual) should be done by the Shipping Employers Federation as early as possible but not later than 31st March, 1969. The listing will be restricted to the existing seven gangs and the criteria will be the length of service of workers in the handling of iron & steel materials. If any difficulty arises in determining the claims of workers or in listing them, the Federation shall seek the assistance of Assistant Labour Commissioner (Central), Visakhapatnam whose

decision in the matter shall be final and binding on the parties. In case the Visakhapatnam Unregistered Dock Workers (Regulation of Employment) Scheme, 1968 is finalised and brought into force earlier than the date just mentioned, the listing will be done by the Dock Labour Board in accordance with that Scheme.

17. To sum up, my directions in this dispute are:—

- (i) As per the custom and practice obtaining in the Port of Visakhapatnam, the workers registered with the Shipping Employers' Federation in the iron & steel workers' pool should continue to handle all iron & steel materials which require the use of crane. Such materials which require manual handling should continue to be handled by the manual iron & steel workers.
- (ii) The manual part of the work of handling of pipes at present attended to by those in the iron & steel workers' pool should be entrusted to the manual iron & steel workers.
- (iii) To facilitate regulation of employment of iron & steel handling labour (manual), they should be listed and formed into a pool latest by 31st March, 1969 by the Shipping Employers Federation which should operate the same till the Visakhapatnam Unregistered Dock Workers (Regulation of Employment) Scheme comes into force.
- (iv) Any additional requirements of workers either for 'crane' work or 'manual' work should be drawn from the other category list and not from outsiders.

(Sd.) O. MAHEEPATHI,
Dy. Chief Labour Commissioner (Central),
Arbitrator.

New Delhi,

Dated: 27th December, 1968.

[No. 28(11)/68-LR.III.]

K. D. HAJELA, Under Secy.

(Department of Labour and Employment)

New Delhi, the 30th December 1968

S.O. 135.—In exercise of the powers conferred by Section 8 of the Coal Mines Labour Welfare Fund Act, 1947 (32 of 1947) read with rule 3 of the Coal Mines Labour Welfare Fund Rules, 1949, the Central Government hereby appoints Dr. S.T. Merani, Joint Secretary, Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) as Chairman of the Coal Mines Labour Welfare Fund Advisory Committee *vice* Shri N. N. Chatterjee, and makes the following amendment in the notification of the Government of India in the Department of Labour and Employment No. S.O. 1118, dated the 21st March, 1968, namely:—

In the said notification for the entry relating to serial No. 1, the following entry shall be substituted, namely:—

“Dr. S. T. Merani,

Joint Secretary, to the Govt. of India Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment), who is hereby appointed asChairman”.

[No. 3(31)/68. M-II]

C. R. NAIR, Under Secy.

(Department of Labour and Employment)*New Delhi, the 31st December 1968*

S.O. 136.—In exercise of the powers conferred by section 73F of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government having regard, to the location of the factory, *Viz* the Central Jail Press, Nagpur in an implemented area, hereby exempts the said factory from the payment of the employers' special contribution leviable under Chapter VA of the said Act for a further period upto and including the 6th November, 1969.

[File No. 6/102/68-HI.]

New Delhi the 2nd January 1969

Whereas the State Government of Rajasthan has, in pursuance of clause (d) of sub-section (1) of section 10 of the Employees' State Insurance Act, 1948 (34 of 1948), nominated Dr. D. N. Roy, Deputy Director, Employees State Insurance Scheme, Government of Rajasthan to be a member of the Medical Benefit council in place of Dr. M. H. Hakim;

Now, therefore, in pursuance of sub-section (1) of section 10 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following further amendment in the notification of the Government of India, in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 2899 dated the 27th September, 1966, namely:—

In the said notification, under the heading "(Nominated by the State Governments concerned under clause (d) of sub-section (1) of section 10)", for the entry against item (15), the following entry shall be substituted, namely :—

"Dr. D. N. Roy, Deputy Director, Employees State Insurance Scheme. Government of Rajasthan, Jaipur."

[F. No. 3/14/68-HI.]

DALJIT SINGH, Under Secy.

(Department of Labour & Employment)*New Delhi, the 1st January 1969*

S.O. 137.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of Shri K. Sharan, Arbitrator in the dispute between the employers in relation to the New Ghusick Colliery of Messrs. West Ghusick Coal Company Limited, Post Office Kalipahari, District Burdwan and their workmen represented by the Colliery Mazdoor Congress (HMS), Bengal Hotel, Post Office Asansol, District Burdwan which was received by the Central Government on the 24th December, 1968.

BEFORE SHRI K. SHARAN, REGIONAL LABOUR COMMISSIONER (C),
ASANSOL

&

ARBITRATOR

PRESENT:

Shri K. Sharan, Regional Labour Commissioner (C), Asansol & Arbitrator.

PARTIES:

Employer in relation to:—

New Ghusick Colliery of M/s. West Ghusick Coal Co. Ltd., P. O. Kalipahari,
Dist. Burdwan

Vs.

Their workmen represented through the Colliery Mazdoor Congress (H. M. S.),
Bengal Hotel, P. O. Asansol, Dist. Burdwan.

APPEARANCES :

For the employer:

- (1) Shri M. P. Roy, Group Personnel Officer, M/s. West Ghusick Coal Co. Ltd.,
P. O. Kalipahari, Dist. Burdwan.
- (2) Shri B. Bakshi, Manager, New Ghusick Colliery, M/s. West Ghusick Coal Co.
Ltd., P. O. Kalipahari, Dist. Burdwan.

For the workmen:

- (1) Shri Nikhil Das, Advocate, Asansol.
- (2) Shri S. N. Jha, General Secretary Colliery Mazdoor Congress (H. M. S.), Bengal Hotal, Asansol.
- (3) Shri M. N. Singh, Assistant Secretary, Colliery Mazdoor Congress (H. M. S.) Bengal Hotal, Asansol.

INDUSTRY: COAL MINE

DISTRICT: Burdwan (West Bengal)

No. E-1/2(6)/68

Asansol, the 17th December, 1968

AWARD.

The Central Government, having received on the 1st August, 1968, a written agreement dated the 29th July, 1968 between the employers in relation to New Ghusick Colliery of M/s. West Ghusick Coal Co. Ltd., P. O. Kalipahari, Dist. Burdwan (hereinafter referred to as the management) and their workmen represented by the Colliery Mazdoor Congress (H. M. S.), Bengal Hotal, P. O. Asansol, Dist. Burdwan (hereinafter referred to as the union) in pursuance of the provisions of sub-section (1) of Section 10A of the Industrial Disputes Act, 1947 (14 of 1947) referring the industrial dispute between them, the specific matters in dispute being as detailed below, to my arbitration and the Central Government being of the opinion that the industrial dispute referred to above existed between the said management and their workmen, ordered publication of the said arbitration agreement in the Gazette of India, Part II, Section 3, sub-section (ii) under its order No. 6/51/68-LRII dated the 12th August, 1968:

Specific Matters in Dispute:

(i) "Keeping in view the recommendations of the Central Wage Board for the Coal Mining Industry as accepted by the Government of India in their resolution dated 21-7-1967 and also the nature of duties performed by the workmen concerned, whether the management of New Ghusick Colliery (P.O. Kalipahari, Distt. Burdwan) of M/s. West Ghusick Coal Co., Ltd. has correctly and properly designated the workmen named below and has correctly and properly placed them in the Trade/category and fixed their basic pay/wages in the scale of basic pay/wages as shown against their respective names?"

FSL. No.	Name	Existing designation	Existing Grade/Category	Existing scale or basic pay/wages.
1.	Shri Rama Shanker Tewary.	Lamp Issuer.	Gr. III	Rs. 180-5-230-7-265
2.	" Mahesh Yadav	Fitter Helper.	Cat. II	Rs. 5.35-0.12-Rs. 6.55
3.	" Shyamapada Datta	Survey Boy.	Cat. I	Rs. 5.00-0.10-Rs. 6.00
4.	" Kashi Nath Sonar	Timber Mazdoor.	Cat. II	Rs. 5.35-0.12-Rs. 6.55
5.	" Jagdish Prasad	Timber Mazdoor.	Cat. II	Rs. 5.35-0.12-Rs. 6.55
6.	" Jagdish Dhari	Timber Mazdoor.	Cat. II	Rs. 5.35-0.12-Rs. 6.55
7.	" Makhlu Chamar	Gate Mazdoor.	Cat. I	Rs. 5.00-0.10-Rs. 6.00
8.	" Abodh Narayan Jha	General Mazdoor.	Cat. I	Rs. 5.00-0.10-Rs. 6.00
9.	" Mahakanta Jha	Pit Head Bath Guard.	Gr. H	Rs. 140-3-170-4-178
10.	" Debi Mitra	Bailing Mazdoor.	Cat. I	Rs. 5.00-0.10-Rs. 6.00
11.	" Sukhdeo Ahir	Timber Mazdoor.	Cat. I	Rs. 5.00-0.10-Rs. 6.00
12.	" Rajendra Choubey	Timber Mazdoor.	Cat. II	Rs. 5.35-0.12-Rs. 6.55

(ii) If not, to what relief are the workmen concerned entitled and from which date?"

2. The Assistant Secretary, Colliery Mazdoor Congress (H.M.S.), Bengal Hotel, Asansol submitted to me a written statement on 27-11-1968 on behalf of the workmen. I fixed up hearing on 28-11-1968 on which date S/Shri M. P. Roy, Group Personnel Officer and B. Kakshi, Manager, New Ghusick Colliery were present on behalf of the management. S/Shri Nikhil Das, Advocate, Asansol and M. N. Singh, Assistant Secretary, Colliery Mazdoor Congress were present on behalf of the workmen. On 28-11-1968 the parties filed a joint petition of compromise dated 28-11-1968 stating therein that the cases of 9 workmen out of 12 workmen under reference had been mutually settled between the parties on the terms detailed in the compromise petition dated 28-11-1968 and that I might accept the terms of settlement incorporated therein and pass my award accordingly in respect of the 9 workmen concerned. The representatives of both the parties submitted that the cases of the remaining 3 workmen were yet to be discussed mutually and as such they requested for an adjournment. Accordingly with the consent of both the parties the hearing was adjourned to be held in this office on 7-12-1968. On 7-12-1968 Shri M. P. Roy, Group Personnel Officer appeared on behalf of the management and S/Shri S. N. Jha, General Secretary, Colliery Mazdoor Congress and M. N. Singh, Asstt. Secretary, Colliery Mazdoor Congress were present on behalf of the workmen. They filed a joint petition of compromise dated 7-12-1968 stating therein that the cases of the remaining three workmen in question were also subsequently discussed between the parties and amicably settled on the terms detailed in the compromise petition dated 7th December, 1968 and that I might accept the terms of settlement incorporated in the joint petition of compromise referred to above and pass my award accordingly in respect of the remaining three workmen concerned. The terms of the settlement incorporated in the joint petitions of compromise dated 28-11-1968 and 7-12-1968 were duly verified and brought on record. The terms of settlement incorporated in the joint petitions of compromise referred to above appear to me to be fair, reasonable and in the interest of the workmen concerned and as such I accept them. Accordingly I make my arbitration award in terms of the joint petitions of compromise dated 28-11-1968 and 7-12-1968 and submit it to the Central Government under Section 10A of the Industrial Disputes Act, 1947. The joint petitions of compromise in question are annexed hereto and made part of the award.

S. SHARAN

Regional Labour Commissioner (C),
Asansol
&
Arbitrator.

BEFORE SHRI K. SHARAN, REGIONAL LABOUR COMMISSIONER (C),
ASANSOL
&
ARBITRATOR

In the matter of an arbitration agreement dated 29-7-1968 between the management of New Ghusick Colliery of M/s. West Ghusick Coal Co. Ltd., P.O. Kalipahari, Distt. Burdwan and their workmen represented by the Colliery Mazdoor Congress (H.M.S.), Asansol over the categorisation of 12 workmen.

PARTIES:

Employer in relation to New Ghusick Colliery of M/s. West Ghusick Coal Co. Ltd. P.O. Kalipahari, Dist. Burdwan.

Vs.

Their workmen represented by the Colliery Mazdoor Congress (H.M.S.), Asansol. Representing the employer:

(1) Shri M. P. Roy, Group Personnel Officer, M/s. West Ghusick Coal Company Ltd., P.O. Kalipahari.

(2) Shri B. Bakshi, Manager, New Ghusick Colliery M/s. West Ghusick Coal Co. Ltd., P.O. Kalipahari, Dist. Burdwan.

Representing the workmen:

(1) Shri Nikhilesh Das, Advocate, Asansol.

(2) Shri M. N. Singh, Assistant Secretary, Colliery Mazdoor Congress (H.M.S.), Asansol.

The representatives of the management and the union named above submit as under:—

1. That the instant industrial dispute has been mutually discussed between the parties at great length during which documentary evidences of the respective parties were scrutinised and after that the instant industrial dispute has been amicably settled between

the parties in respect of the cases of all workmen concerned excepting S/Shri Rama Shankar Tiwary, Mahesh Yadav and Mahakanta Jha on the following terms:—

Terms of Agreement

(i) It is agreed that Shri Shyamapada Dawn shall be designated as Chairman, Grade F and paid wages in the scale of Rs. 165.00—4.00—205.00—5.00—Rs. 230.00 with retrospective effect from 15-8-67 and paid the difference of wages between the wages payable and the wages already paid latest by 31-1-1969.

(ii) It is agreed that S/Shri Makhlu Chamar and Sukhdeo Ahir shall be designated as Timber Mazdoor and placed in Category II and paid the wages in the scale of Rs. 5.35—0.12/- 6.55 with effect from 28-11-1968.

(iii) It is agreed that Shri Rajendra Chombey, Timber Mazdoor shall be placed in Category III and paid the wages in the scale of Rs. 5.90—0.15—Rs. 7.40 with retrospective effect from 15-8-67 and paid the difference of wages between the wages payable and wages already paid latest by 31-1-1969.

(iv) It is agreed that Shri Kashi Nath Sonar, Shri Jagdish Prasad, Shri Jagdish Dhari, Shri Makhlu Chamar and Shri Sukhdeo Ahir shall continue to be Timber Mazdoor in Category II but as and when any of them will work as Timber Mazdoor in any seam other than Kerla Seam he would be paid the differences of wages between the wages of Category III and Category II for those days on which he actually works as such.

(v) It is agreed that S/Shri Abodh Narayan Jha and Debu Mitra has been working as General Mazdoor and Bailing Mazdoor respectively and has been correctly placed in Category I.

2. The representatives of both the parties submit that the Arbitrator may be pleased to accept the above terms of settlement and give his decision in terms of the agreement referred to in para (1) above in respect of the workmen concerned.

3. There has been no agreement between the parties in respect of the cases of S/Shri Ramashanker Tiwary, Mahesh Yadav and Asankanta Jha and as such the parties requested the Arbitrator to adjourn the hearing in respect of these cases to a latter date.

Sd./- Illegible
Representing the management:

Sd./- Illegible
Representing the workmen:

Witnesses:

1. Sd./-Illegible

1. Sd./-Illegible

2. Sd./-Illegible

2. Sd./-Illegible

Asansol, the 28th November, 1968.

BEFORE SHRI K. SHARAN, REGIONAL LABOUR COMMISSIONER (C), ASANSOL

&

ARBITRATOR.

In the matter of an arbitration agreement dated 29th July, 1968 between the management of New Ghusick Colliery of M/s. West Ghusick Coal Co. Ltd., P.O. Kalipahari, Dist. Burdwan and their workmen represented by the Colliery Mazdoor Congress (H.M.S.), Asansol over categories of 12 workmen.

PARTIES:

Employer in relation to New Ghusick Colliery of M/s. West Ghusick Coal Co. Ltd., P.O. Kalipahari, Dist. Burdwan.

Vs.

Their workmen represented by the Colliery Mazdoor Congress (H.M.S.), Asansol.

Representing the employer: Shri M. P. Roy, Group Personnel Officer, M/s. West Ghusick Coal Co. Ltd., P.O. Kalipahari, Burdwan.

Representing the workmen: (1) Shri S. N. Jha, General Secretary, Colliery Mazdoor Congress (HMS), Asansol.

(2) Shri M. N. Singh, Asst. Secretary, Colliery Mazdoor Congress (HMS), Asansol).

The representative of the management and the union named above submit as under:—

1. That the case of remaining three workmen namely S/Shri Ramashanker Tewari, Mahesh Yadav and Mahakanta Jha have been subsequently discussed mutually between the parties and the same have been amicably settled between them on the following terms:—

Terms of Agreements:

4) It is agreed as a special case Shri Ramashanker Tewari shall be designated as Register Keeper and given Grade II and his initial pay shall

be fixed at Rs. 219 in the scale of Rs. 205—7—275—10—325 with retrospective effect from 1st December, 1968.

- (ii) It is agreed that Shri Mahesh Yadav shall continue to be designated as Fitter Helper in Category II and he will be given three increments in the scale of Rs. 5, 35-0, 12—6-55 with retrospective effect from 1st December, 1968.
 - (iii) It is agreed that Shri Mahakanta Jha shall be designated as Register Keeper and given Grade II and shall be given basic wages in the scale of Rs. 205—7—275—10—325 with retrospective effect from 1st December, 1968.
2. The representatives of both the parties submit that the Arbitrator may be pleased to accept the above terms of settlement and give his award in terms of the agreement referred to in para 1 above in respect of the three workmen name above.

Sd./Illegible

Sd./-Illegible

Representing the employer :

Representing the workmen :

Witnesses :

1. Sd./-Illegible.
2. Sd./-Illegible.

Asansol, the 7th December, 1968.

[No. 6/51/68-LRII.]

S.O. 138.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 3), Dhanbad, in the industrial dispute between the employers in relation to the Amlabad Colliery of Messrs Bhowrah Kankanee Collieries Limited, Post Office Bhowrah, District Dhanbad and their workmen, which was received by the Central Government on the 23rd December, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 3) AT DHANBAD.

REFERENCE No. 103 OF 1968.

PRESENT:

Shri Sachidanand Sinha, Presiding Officer

PARTIES :

Employers in relation to the Amlabad Colliery.

Vs.

Their workmen.

APPEARANCES:

For Employers: Shri K. C. Nandkeolyar, Dy. Chief Personnel Officer.

For Workmen: Shri B. P. Tripathy, Org. Secretary, Khan Mazdoor Congress, Bhowra Branch.

INDUSTRY: Coal.

STATE: Bihar.

Dhanbad, the 9th December, 1968

AWARD

1. The Central Government, being of opinion that an Industrial Dispute exists between the employers in relation to the Amlabad Colliery of Messrs Bhowrah Kankanee Collieries Limited, Post Office Bhowrah, District Dhanbad and their workmen, by its order No. 2/192/66-LRII dated the 6th April, 1967 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The Schedule is extracted below :

SCHEDULE

"(i) Whether the action of the management of Amlabad Colliery of Bhowra Kankanee Collieries Limited in stopping from work, the following workers with effect from the 21st March, 1966 was justified :—

- | | | |
|--------------------------|----|-------------|
| 1. Shri Chandu Kahar | .. | Sand Loader |
| 2. Shri Gobardhan Dhoba | .. | " |
| 3. Shri Dayal Kahar | .. | " |
| 4. Shri Chaitu Rajwar | .. | " |
| 5. Shri Chakardhar Gorai | .. | " |
| 6. Shri Pahalwan Dhoba | .. | " |

7. Shri Yunum Mia		Sand Loader
8. Shri Rameshwar Gorai	..	"
9. Shrimati Nimia Mahtain	..	"
10. Shrimati Sumdri Rajwarin	..	"
11. Shrimati Sujani Mahatain	..	"

(ii) If not, to what relief are the workmen entitled?"

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 36 of 1967 on its file. While it was pending there the dispute was transferred to the Central Government Industrial Tribunal at Jabalpur by its Order No. 8/25/67-LRII dated the 16th of September 1967 where it was registered as reference No. 139 of 1967. The Central Government by its Order No. 8/25/67-LRII dated the 24th of November, 1967 retransferred the dispute to the Central Government Industrial Tribunal, Dhanbad where it was renumbered as reference No. 67 of 1967. The Central Government by its subsequent Order No. 2/192/66-LRII dated the 10th of October, 1968 transferred the dispute to this Tribunal where it has been renumbered as reference No. 103 of 1968.

3. It is unnecessary to state the respective cases of the parties because the parties negotiated the dispute and have settled it amicably. They have filed a joint petition of compromise at annexure 'A'. I consider the terms of the compromise beneficial to the affected workmen. The compromise is therefore, accepted and the award is made in terms of the joint settlement annexure "A" which shall form part of the award.

4. The award may now be submitted to the Central Government under Section 15 of the Industrial Disputes Act, 1947.

Encl. ANNEXURE 'A'.

SACHIDANAND SINHA,
Presiding Officer,
Central Govt. Industrial Tribunal-cum-
Labour Court No. 3, Dhanbad.

ANNEXURE 'A'

BEFORE THE PRESIDING OFFICER

CENTRAL GOVT. INDUSTRIAL TRIBUNAL (NO. 3), DHANBAD.

IN THE MATTER OF REFERENCE NO. 103 OF 1968.

BETWEEN

The Management of Bhowra Colliery of M/s. Bhowra Kankanee Collieries Ltd.,
P.O. Bhowra (Dhanbad).

AND

Their Workmen.

Joint petition of compromise on behalf of the parties.

The parties have compromised the dispute on the following terms, mutually settled by them.

Terms of Settlement

1. That the Management agrees, without prejudice to its stand to put S/Shri Chandu Kahar and 10 others on the job of Sand Loaders as other Sand Loaders in the Colliery.

2. That the workmen concerned Sri Chandu Kahar & 10 others shall have to appear for and join duty on or before 14th December, 1968.

3. That in the event of the workmen, any or all, not reporting for duties within the period as stated in (2) above, it shall not be the responsibility of the management to provide the job to all or any as stated in (1) & (2).

4. That the union agrees to the above arrangement and undertakes the responsibility to inform to workmen concerned.

5. That the parties shall bear their own costs.

It is therefore prayed that the tribunal may be pleased to accept this settlement as fair and reasonable and pass the Award accordingly.

On behalf of the workmen.

B. P. TRIPATHY,
Org. Secretary,
Khan Mazdoor Congress,
Bhowra Branch,
P.O. Bhowra (Dhanbad).

Dated, the 26th November, 1968

On behalf of the employer.

K. C. NANDKEOLYAR,
Dy. Chief Personnel Officer,
M/s. Karamchand Thapar & Bros. (P) Ltd.
Central Office, Bhowra,
P. O. Bhowra (Dhanbad).

[No. 2/192/66-LRIL]

S.O. 139.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 3), Dhanbad, in the industrial dispute between the employers in relation to the management of Nichitpur Colliery of Messrs Nichitpur Coal Company Private Limited, Post Office Bansjora, District Dhanbad and their workmen, which was received by the Central Government on the 23rd December, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 3) AT DHANBAD

REFERENCE No. 35 OF 1968.

PRESENT:

Shri Sachidanand Sinha, Presiding Officer.

PARTIES :

Employers in relation to the Nichitpur Colliery

Vs.

Their workmen.

APPEARANCES :

For Employees : Shri S. S. Mukherjee, Advocate.

For Workmen : Shri P. Burman, Vice President, Mine Mazdoor Union.

INDUSTRY : Coal

STATE : Bihar.

Dhanbad, the 7th December, 1968

AWARD

1. The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Nichitpur Colliery of Messrs Nichitpur Coal Company Private Limited, Post Office Bansjora, District Dhanbad and their workmen by its order No. 2/108/66-LRIL dated the 17th of August, 1966 referred to the Central Government Industrial Tribunal, Dhanbad under section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

"Whether the management of Nichitpur Colliery of Messrs Nichitpur Coal Company Private Limited, Post Office Bansjora, District Dhanbad refused employment to Smt. Zamila Bibi, Smt. Khatun Bibi, Shale Picking Kamins and Shri Lakiram Manihi. Fitter-helper on and from the 16th November, 1965, 16th November, 1965 and 3rd November, 1965 respectively? If so, to what relief are the workmen concerned entitled?"

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 126 of 1966 on its file. While it was pending there the dispute was

transferred to the Central Government Industrial Tribunal No. 2, Dhanbad by Order No. 8/25/67-LRII dated the 8th of May, 1967 and there it was registered as reference No. 164 of 1967. By its subsequent Order No. 8/71/68-LRII dated the 13th August, 1968 the dispute was transferred to this Tribunal and here it has been renumbered as reference No. 35 of 1968.

3. The General Secretary, Mines Mazdoor Union filed a written statement on 15th February, 1966 on behalf of the workmen. Their case is that all the three concerned workmen were old and permanent employees of the Colliery and that the management refused employment of Zamila Bibi, Khatun Bibi and Lakhiram Manjhi from 16th November, 1965, 16th November, 1965 and 3rd November, 1965 respectively.

4. In respect to Zamila Bibi it is said that she was first rendered idle in the middle of October, 1965 and the Union made a complaint to the Assistant Labour Commissioner (Central), Dhanbad on 25th October, 1965. On the intervention of the Asstt. Labour Commissioner the management agreed in a settlement dated 15th November, 1965 to take her back in employment on her reporting for duty and consequently Zamila Bibi reported for resumption of duty at the colliery office on 16th November, 1965 but she was not allowed to resume work and was turned out of the colliery by force.

5. In respect to Smt. Khatun Bibi it is said that she was also refused employment and turned out of the colliery in a similar manner on 16th November, 1965 because she talked and sympathised with Smt. Zamila Bibi.

6. In respect to Shri Lakhiram Manjhi it is said that he was rendered idle from 3rd November, 1965 without any order and reason whatsoever, and that when the union raised a dispute before the appropriate authority the management agreed to take him back, only on condition that the workman must renounce his membership of the Union of his choice and must apply through the management's pocket Union. It is said that the management did not hold any enquiry proceeding in relation to any of the workmen concerned and did not issue any order of dismissal to any of them.

7. The Employers filed their written statement on 6th January, 1967. Regarding Smt. Zamila Bibi they submitted that she was a Shale Picking Kamin and that she submitted her resignation and left the colliery 22nd October, 1965. The Mine Mazdoor Union however filed a complaint on her behalf and a settlement was arrived at on 15th November, 1965 and as per term of settlement the management agreed to take her back and she was asked to report for duty by 16th November, 1965 but in spite of aforesaid settlement Zamila Bibi did not turn up for duty on 16th November, 1965 or any day thereafter and after waiting for a considerable period the management issued her a chargesheet dated 8th December, 1965 for remaining absent without permission or authorised leave. On receipt of the reply to the chargesheet a notice dated 16th December, 1965 was issued to Smt. Zamila Bibi fixing the date of departmental enquiry on 23rd December, 1965. In spite of this notice Smt. Zamila Bibi did not attend the departmental enquiry and therefore, the enquiry was held in her absence. In the departmental enquiry the misconduct was satisfactory established and as Smt. Zamila Bibi did not report for duty by 16th November, 1965 as per term of settlement her services stood automatically terminated on and from that date.

8. In respect to Smt. Khatun Bibi it is said that she was a Shale Picking Kamin and that she submitted her resignation on 22nd October, 1965 and received her full and final payment on 23rd October, 1965. After the date of her resignation i.e. from 22nd October, 1965 Smt. Khatun Bibi left the Colliery and had not worked in the colliery since then. Smt. Khatun Bibi was not denied employment on and from 16th November, 1965.

9. In respect to Shri Lakhiram Manjhi it is said that he absented from duty from 3rd November, 1965 without any permission or authorised leave for which a chargesheet dated 16th November, 1965 was issued through peon book which he refused to accept and the same was therefore, sent per registered post with A/D. The chargesheet sent to Shri Lakhiram Manjhi by registered post came back with the remark "Left". Therefore, when Lakhiram Manjhi did not present for work on any date from 3rd November, 1965 his services stood terminated with effect from 3rd November, 1965.

10. Therefore, their case is that Smt. Zamila Bibi and Khatun Bibi, the Shale Picking Kamins and Lakhiram Manjhi, fitter helper were not refused employment on and from 16th November, 1965. 16th November, 1965 and 3rd November, 1965 respectively and that they are not entitled to any relief.

Case of Lakhiram Manjhi

11. According to the Union he was made idle from 3rd November, 1965 without any chargesheet or notice. According to the management Lakhiram Manjhi continued to remain absent from 3rd November, 1965 for which he was chargesheeted. In spite of the best effort of the management the chargesheet was not served on Lakhiram Manjhi and when he did not turn up, his services stood terminated since 3rd November, 1965. The management have filed the chargesheet which was issued against Lakhiram Manjhi (Ext. M.12). The same was sent by registered post with A/D but was returned unserved vide Ext. M.14. An affidavit has been filed in this dispute on behalf of Lakhiram Manjhi which he is said to have been sworn before a First Class Magistrate at Dhanbad. In this affidavit it is stated that he has amicably settled all the disputes with the management and that he has no pending dispute which needs adjudication by the tribunal, and that the dispute may be treated as finally settled. MW2 Shri Naresh Chandra Chatterjee, Cashier of the colliery has stated in his evidence that the chargesheet was issued to workman Lakhiram Manjhi (Ext. M.12) and that the chargesheet was issued per peon book (Ext. M.13). The chargesheet was thereafter sent by the registered post but the same could not be delivered to him (Ext. M.14). On this point he was not cross-examined by the Union. Lakhiram Manjhi was also not examined by the Union to support the allegations made in the written statement.

12. The evidence discussed above clearly goes to show that he was not refused employment by the management from 3rd November, 1965.

Case of Khatun Bibi

12. It is said that Khatun Bibi was also refused employment from 16th November, 1965 because she took part in the quarrel with Zamila Bibi and showed her sympathy in the matter. According to the management she resigned on 22nd October, 1965 and left the colliery and have not worked in the colliery since then and she had received her full and final payment on 23rd October, 1965. The management has filed Ext. M.10 which is said to be a letter of resignation submitted by Khatun Bibi on 22nd October, 1965. They have also filed Ext. M.11 which is receipt showing payment of Rs. 27.90 to Khatun Bibi on 23rd October, 1965. They have also filed the attendance registers (Ext. M.4 and M.5) in order to show that she never attended the colliery since 2nd October, 1965 and her attendance was not marked. The registers are maintained under section 48 of Mines Act read with Rule 78 of the Mines Rule, 1955. These two registers have been filed in order to show that she was not in service on 16th November, 1965. Khatun Bibi has been examined and she is WW2. She also in her evidence did not give the date from when she was made to sit idle. She has stated in her evidence that she informed Sri Imamul H. Khan, Secretary of the Mine Mazdoor Union that her thumb impression was taken on a blank piece of paper and that she was made to sit idle. Except her oral statement there is no satisfactory evidence to support her contention. The Union did not even examine Sri I. H. Khan as their witness on this point. On the other side MW2 Naresh Chandra Chatterjee, the Cashier of the Colliery has stated in his evidence that Khatun Bibi submitted her resignation in his presence on 22nd October, 1965 and that after submitting her resignation she received full payment and has proved the letter Ext. M.10 and M.11.

14. The evidence discussed above goes to prove that Khatun Bibi was not in employment of the management on 16th November, 1965 and therefore, the question of refusal of her employment by the management does not arise and I hold that it has been satisfactorily proved that Khatun Bibi was not refused employment from 16th November, 1965.

Case of Smt. Yamila Bibi

15. The case of Zamila Bibi, is that she submitted her resignation on 22nd October, 1965 and left the colliery. The management has filed (Ext. M.6) the letter of resignation of Zamila Bibi. According to the management after submitting her resignation she left the colliery. The Mines Mazdoor Union filed a complaint on her behalf before the Assistant Labour Commissioner. Ext. W3 is the complaint dated 25th October, 1965 by Shri Imamul H. Khan, the General Secretary, Mines Mazdoor Union to the Assistant Labour Commissioner stating that she is made idle and her thumb impression was taken on a blank piece of paper. It appears that a settlement was arrived at on 15th November, 1965. According to that settlement it was agreed that Zamila Bibi shall be taken back to duty with immediate effect and that she must report for duty with effect from 16th November, 1965 but she was not allowed to resume work and was turned out from the colliery by force. According to the management Zamila Bibi did not report for duties on 16th November, 1965 and that the management issued a chargesheet dated 8th December, 1965 and on receipt of reply to the chargesheet a notice was issued to Smt. Zamila Bibi

fixing the date of departmental enquiry on 23rd December, 1965. Zamila Bibi did not attend the departmental enquiry and it was held in her absence and in the departmental enquiry the misconduct was successfully established and that when Zamila Bibi did not report for duty by 16th November, 1965 her services stood terminated.

16. Ext. M.3 is the chargesheet that was issued to Zamila Bibi. She replied to the chargesheet on 11th December, 1965. Ext. M.8 is the notice of enquiry dated 16th December, 1965 informing Zamila Bibi that the departmental enquiry shall be held on 23rd December, 1965 at 4 P.M. It appears that Smt. Zamila Bibi did not turn up at the time of departmental enquiry and therefore, it was held in her absence and two witnesses viz. Sharvashri Ram Narain Mahato and Fatick Chandra Dutta were examined on 23rd December, 1965. The Enquiring Officer submitted his report on 30th December, 1965.

17. The notice of enquiry is Ext. M.8 which was sent by registered post with A/D. The acknowledgement receipt does not bear the signature of Zamila Bibi. Therefore, it does not show that the notice of enquiry was received by Zamila Bibi. There is no evidence to show that the chargesheet which was sent by registered post was received by Zamila Bibi. It can not be said that the management did all that it could to serve the concerned workman with the notice of enquiry. In any case it cannot be said that Smt. Zamila Bibi deliberately and without any reasonable ground absented herself from the departmental enquiry. In this connection it is to be noted that the departmental enquiry was conducted by the manager and the case of Zamila Bibi is that she was not allowed to work though she approached the manager personally for work. Therefore, according to the Union the manager was biased against her and the domestic enquiry should not have been held by the manager. It was therefore, submitted before me that the enquiry suffered from a serious defect as it was conducted by a person who was biased against the concerned workman. We need not discuss in detail regarding the departmental enquiry as according to the management action was not taken against Zamila Bibi on the basis of the departmental enquiry.

18. The management's case is that since Zamila Bibi did not turn up on 16th November, 1965 and therefore, her service was automatically terminated. In this connection it is submitted on behalf of the management that when Zamila Bibi did not turn up, the management sent a letter dated 2nd December, 1965 to the Assistant Labour Commissioner informing him that Zamila Bibi was not turned up for work. This letter is marked Ext. M.7. According to the Union this was a spurious document and was never despatched and posted to the Asstt. Labour Commissioner. MW2 Naresh Chandra Chatterjee has also stated in his evidence that there is no documentary proof that Ext. M.7 was despatched and received by the Asstt. Labour Commissioner.

19. According to the Union Zamila Bibi as per settlement went to attend her duty on 16th November, 1965 but she was turned out and was not given employment. The Union therefore, filed an application before the Asstt. Labour Commissioner on 17th November, 1965 (Ext. W.4). This letter Ext. W.4 has been signed by Sri Permeshwar Jha, Vice President of the Mine Mazdoor Union. He has been examined and is WW.3. He has stated in his evidence that this letter dated 17th of November, 1965 (Ext. W.4) addressed to the Asstt. Labour Commissioner has been signed by him. He further stated in his evidence that it is not a fact that the Union was not interested in the dispute of the concerned workman and also asserted this fact before the Asstt. Labour Commissioner who requested him to file an application for reopening the issue and that he did file a petition before him for reopening the dispute. In this view of the evidence I hold that Zamila Bibi was refused employment by the management from the 16th of November, 1965.

20. To sum up, my finding is that the management did not refuse employment to Smt. Khatun Bibi from the 16th of November, 1965 and Sri Lakhiram Manjhi from 3rd of November, 1965 respectively and that they are not entitled to any relief. On the other hand I hold that Smt. Zamila Bibi was refused employment by the management from 16th of November, 1965 and that she is entitled to be reinstated with full back wages from the date of refusal of work i.e. 16th November, 1965 upto the date of her reinstatement along with continuity of service.

21. This is my award. It may now be submitted to the Central Government under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) SACHIDANAND SINHA,

Presiding Officer,

Central Govt. Industrial Tribunal-cum-Labour Court No. (3), Dhanbad.

[No. 2/108/66-LRII.]

S.O. 140.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 3), Dhanbad, in the industrial dispute between the employers in relation to the management of Bhowrah Colliery of Messrs Bhowrah Kankanee Collieries Limited Post Office Bhowrah, District Dhanbad and their workmen, which was received by the Central Government on the 23rd December, 1968.

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 3)
AT DHANBAD.**

REFERENCE NO. 86 OF 1968

PRESENT :

Shri Sachidanand Sinha,—*Presiding Officer.*

PARTIES :

Employers in relation to Bhowrah Colliery of Messrs. Bhowrah Kankanee Collieries Ltd.

AND

Their workmen.

APPEARANCES :

For Employers—Shri B. N. Lall, Personnel Officer.

For Workmen—Shri Sanker Bose, Secretary Colliery Mazdoor Sangh.

INDUSTRY : Coal

STATE : Bihar.

Dhanbad, Dated the 9th of December, 1968

AWARD

1. The Central Government, being of opinion that an Industrial Dispute exists between the employers in relation to the Bhowrah Colliery of M/s Bhowrah Kankanee Collieries Limited P.O. Bhowrah District—Dhanbad and their workmen by its Order No. 2/6/67-LRII dated the 10th February, 1967 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

“Whether the action of the management of Bhowrah Colliery of Messrs Bhowrah Kankanee Collieries Limited, Post Office Bhowrah, District Dhanbad, in refusing employment to Shri Laldhari Singh, Pump Khalasi from the 25th August, 1966, to the 15th November, 1966, was justified? If not, to what relief is the workman entitled?”

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 17 of 1967 on its file. While it was pending there the dispute was transferred to the Central Government Industrial Tribunal, No. 2, Dhanbad by the Central Government's Order No. 8/25/67-LRII dated the 8th of May, 1967 and there it was registered as reference No. 215 of 1967. The Central Government by its subsequent Order No. 8/71/68-LRII dated the 13th August, 1968 transferred the dispute to this Tribunal where it has been renumbered as reference No. 86 of 1968.

3. The parties negotiated the dispute and have settled it amicably. They have filed a compromise petition at annexure “A”. The terms of compromise are satisfactory and are accepted. Accordingly I pass an award in terms of the joint settlement annexure “A” which shall form part of the award.

4. The award may now be submitted to the Central Government under Section 15 of the Industrial Disputes Act, 1947.

(Sd.) SACHIDANAND SINHA,
Presiding Officer,
Central Govt. Industrial Tribunal-Cum-
Labour Court No. 3, Dhanbad.

ANNEXURE 'A'

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
No. 3, DHANBAD

In the Matter of Reference No. 86/1968 (Old Reference 215, 1967)

BETWEEN

The Employers in relation to Bhowra Colliery of M/s. Bhowra Kankanee Collieries, P.O. Bhowra, Distt., Dhanbad.

AND

Their Workman represented by the Colliery Mazdoor Sangh,

Joint application on behalf of parties for compromise.

The parties above named beg to submit as under:—

That the Government of India, Ministry of Labour & Employment *vide* their Notification No. 2/6/67-LRII dated 10th February, 1967 referred this dispute before the Honourable Tribunal for adjudication.

That the parties have compromised the dispute on the following terms:—

- (a) That the management with a view to maintain cordial relationship with the workers has agreed to pay Rs. 100.00 as *exgratia* to the workman concerned.
- (b) That the concerned workman has been paid Rs. 100.00 as *exgratia* in compliance of this settlement.
- (c) That the parties would bear their own costs.
- (d) That the above mentioned terms of settlement may kindly be held as reasonable and justified and Award passed accordingly.

And for that act of kindness your petitioners as in duty bound, shall ever pray.

Sd/- Illegible.

Sd/- Illegible.

For Workmen

For Employers.

Dated 29th November, 1968.

Dated 29th November, 1968.

Agent.

Bhowra Kankanee Collieries Ltd.

Bhowra North/South Colliery,

P.O. Bhowra (Dhanbad).

[No. 2/6/67-LRII.]

New Delhi, the 2nd January 1969

S.O. 141.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 3), Dhanbad, in the industrial dispute between the employers in relation to the management of Kankanee Colliery of Messrs Bhowra Kankanee Collieries Limited, Post Office Bansjora, District Dhanbad and their workmen, which was received by the Central Government on the 23rd December, 1968.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 3) AT DHANBAD

REFERENCE NO. 60 OF 1968

PRESENT:

Shri Sachidanand Sinha, Presiding Officer.

PARTIES:

Employers in relation to the Kankanee Colliery

Versus

Their workmen.

APPEARANCES:

For Employers: Shri K. C. Nadkeolyar, Dy. C.P.O.

For Workmen: Shri P. Burman, Secretary, Khan Mazdoor Congress.

INDUSTRY: Coal.

STATE: Bihar.

Dhanbad, the 17th December 1968

AWARD

1. The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Kankanee Colliery of Messrs Bhowra Kankanee Collieries Limited, Post Office, Bansjora, District Dhanbad, and their workmen by its order No. 2/147/66-LRII dated the 5th of November, 1966 referred to the Central Government Industrial Tribunal, Dhanbad under section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The Schedule is extracted below:

SCHEDULE

"Whether the management of the Kankanee Colliery of Messrs Bhowra Kankanee Collieries Limited was justified in dismissing Shri Ratan Gorain, Pump Khalasi, with effect from the 18th August, 1966? If not, to what relief is the workman entitled?"

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 153 of 1966 on its file. While it was pending there the proceeding was transferred to the Central Government Industrial Tribunal No. 2, Dhanbad by the Central Government's order No. 8/25/67-LRII dated the 8th of May, 1967 and there it was registered as reference No. 189 of 1967. The Central Government by its subsequent order No. 8/71/68-LRII dated the 13th of August, 1968, transferred the dispute to this tribunal where it has been renumbered as reference No. 60 of 1968.

3. A written statement was filed by the General Secretary, Khan Mazdoor Congress on 3rd April 1967. On the date of hearing i.e. on the 13th of December 1968 the Secretary Khan Mazdoor Congress filed a petition to the effect that the concerned workman is no more interested to pursue the matter and submitted on behalf of the Union that the dispute may be considered to have been dropped.

4. Incidentally Shri Ratan Gorain, the concerned workman also presented before me and he submitted that since he has got another employment under the same employers, he is no more interested in the proceedings of the dispute.

5. In these circumstances, I hold that no dispute further exists between the parties and I record a 'No Dispute' award between the parties.

6. It may be submitted to the Central Government under section 15 of the Industrial Disputes Act, 1947.

SACHIDANAND SINHA, Presiding Officer.

[No. 2/147/66-LRII.]

S.O. 142.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 2), Dhanbad, in the industrial dispute between the employers in relation to the Jamadoba Colliery of Messrs Tata Iron and Steel Company Limited, Jamadoba, Post Office Jealgora, District Dhanbad and their workmen, which was received by the Central Government on the 26th December, 1968.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2)
AT DHANBAD**

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE No. 121 OF 1967

In the matter of industrial dispute under Section 10(1)(d) of the Industrial Disputes Act, 1947.

PARTIES :

Employers in relation to the Jamadoba Colliery of Messrs Tata Iron and Steel Company Limited, Jamadoba, Post office Jealgora, District Dhanbad

AND

Their workmen

APPEARANCES :

For the employers: Shri L. H. Parvatiyar, Legal Assistant.

For the workmen: Shri H. N. Singh, Vice President, Koyala Mazdoor Panchayat.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, 19th December 1968

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the Jamadoba colliery of Messrs Tata Iron and Steel Company Limited, Jamadoba, Post office Jealgora, District Dhanbad, and their workmen, by its order No. 2/27/66-LRII dated 4th March 1966, referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matters specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

"Whether the dismissal of Shri Ramdeo, Miner by the management of the Jamadoba Colliery of Messrs Tata Iron and Steel Company Limited, with effect from the 15th June, 1965, was justified? If not, to what relief is the workman entitled?"

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 46 of 1966 on its file. Employers as well as the workmen filed their statements of demands. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 8/25/67-LRII dated 8th May, 1967. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 121 of 1967.

3. Shri Ramdeo, (hereinafter referred to as the affected workman) was a miner in Jamadoba colliery of the employers. On 21st April 1965 at about 8.00 A.M. the affected workman went to Shri A. S. Gandhi, the Assistant Manager with an application for 28 days leave. The Assistant Manager granted him only 7 days leave. The affected workman protested against it. These facts are not in dispute. The case of the workmen is that the wife of the affected workman was seriously ill, that his home village was somewhere in Allahabad district of U.P., that the 7 days leave granted to him was not sufficient even to cover the transit to and from, that he left the application on the table of the Assistant Manager saying that the leave granted was not acceptable to him and that the employers issued a charge-sheet with false allegation, held an improper domestic enquiry and dismissed him illegally. The employers filed their statement stating that in view of the exigencies of the work, the Assistant Manager granted 7 days leave to the affected workman against 28 days asked for, that the affected workman misbehaved with the Assistant Manager shouting at him tearing away the leave application and throwing it on the face of the Assistant Manager. The workmen were represented by Shri H. N. Singh, Vice President, Koyala Mazdoor Panchayat and the employers by Shri L. H. Parvatiyar, Legal Assistant. By consent of the employers, Exts. W1 to W2 for the workmen and by consent of the workmen Exts. M1 to M13 for the employers were marked. On behalf of the workmen 3 witnesses were examined and Ext. W4 was marked. The employers examined a witness and marked Ext. M14.

4. It is not in dispute that on 21st April 1965 when the Assistant Manager granted to the affected workman only 7 days leave against 28 days asked for, the affected workman protested. In what form the protest was made is in dispute. According to the affected workman he simply placed the application on the table of the Assistant Manager and told him that the leave of 7 days sanctioned was not sufficient, while the case of the employers is that the affected workman shouted at the Assistant Manager, tore the application to pieces and threw the pieces on his face. The torn application is Ext. M14, and it is in 3 pieces. On 21st April 1965 itself the affected workman submitted a complaint to the Chief Mining Engineer against the action of the Assistant Manager in granting him only 7 days leave against 28 days asked for. Ext. W. 2 is a reply to the complaint wherein reasons are given for not granting more leave than for 7 days. On the same day the Assistant Manager also complained to the Manager against the misbehaviour of the affected workman on which the Manager directed Shri Kar, Welfare Officer to make a preliminary enquiry of the eye-witnesses to the occurrence. Shri Kar made a preliminary enquiry recording statements of witnesses and the proceedings are Ext. M3. The finding of Shri Kar in respect of the preliminary enquiry is Ext. M4, stating that a *prima facie* case had been established against the affected workman. Then a charge-sheet, Ext. M5 dated 23rd April 1965 was issued and the explanation to it submitted by the affected workman is Ext. M6. The charge mentioned categorically that on hearing that the leave was sanctioned only for 7 days the affected workman "became very angry and shouted 'Ham Etna Chutti Nahi Lega' and tore the leave application and threw it on the face of Shri Gandhi." In his explanation the affected workman denied the charge. MW.1 conducted the domestic

enquiry and the enquiry proceedings are Ext. M8. Ext. M9 is the report of the enquiry officer holding the affected workman guilty of the charge. Ext. M10 is the recommendation of the Manager to dismiss the affected workman in pursuance of the finding. Ext. M11 is a note of the Assistant Chief Mining Engineer dismissing the affected workman. Ext. M12 is the letter of the Assistant Chief Mining Engineer informing the affected workman that he was dismissed with effect from 15th June 1965. In the statement filed by them the workmen did not deny that the affected workman had received the charge-sheet. submitted his explanation and that the MW.1 had held the domestic enquiry. It was not also denied that the affected workman had attended the enquiry. The objections taken by the workmen against the domestic enquiry were that the statement of the Assistant Manager, who was the complainant, was not explained to the affected workman in Hindi, that he was not given any opportunity to cross-examine the Assistant Manager, that the enquiry officer did not allow time to the affected workman to produce defence witness, Shri Panchan Das and that the proceedings of the domestic enquiry having been recorded in English it was difficult for the affected workman to believe if they were faithfully translated in Hindi to him. The affected workman is examined as WW.1. His evidence is full of discrepancies and contrary to the facts admitted in the statement filed by the workmen. He says that he did not receive any notice of the enquiry, did not attend the enquiry and did not know who held the enquiry. Against the admitted fact that he had applied for 28 days leave, he says repeatedly that he had applied for 21 days leave. The occurrence is of 21st April 1965 and the charge-sheet was issued on 23rd April 1965. The affected workman submitted explanation, Ext. M6 on 26th April 1965. The enquiry was held on 30th April 1965. The enquiry officer submitted his report on 6th May 1965 and the affected workman was dismissed by the letter dated 11th June 1965. In spite of it the affected workman, WW.1 states that 2 or 3 weeks after the incident he was granted 21 days leave, that after returning from leave he discharged his duties for 21 days and that thereafter he was dismissed from service. Not a word about these facts is mentioned in the written statement filed by the workmen. The enquiry officer, MW. 1 has in his evidence that during the domestic enquiry he had recorded statements of 4 witnesses for the management, that the affected workman was present throughout, that he had cross-examined all the management's witnesses, that his statement also was recorded, that he did not examine any defence witness, that the enquiry officer explained the statements in Hindi to the affected workman and thereafter the affected workman had subscribed his thumb impressions to the statements, that during the enquiry the affected workman did not make any request for time to produce his defence witnesses and that at no time the affected workman had made any request not to record statements in English. The witness is cross-examined at length but nothing is elicited to damage his testimony. The enquiry proceedings, Ext. M8 amply support the witness. There is no rebuttal to this evidence. On this evidence I have no hesitation to hold that the enquiry was proper and that the finding of the enquiry officer was based soundly on the evidence led before him. I also do not see any flaw in the employers accepting the finding.

5. The only point for consideration is whether the affected workman deserved the maximum punishment for the misconduct committed by him. Under clause 19(5) of the Certified Standing Orders, Ext. M13, drunkenness, fighting, riotous or disorderly or indecent behaviour is a misconduct for which an employee may be suspended fined or dismissed. Dismissal is not the only punishment provided when an employee is found guilty of misconduct. He could be suspended or fined also. While conceding that the affected workman had behaved in a disorderly or indecent manner with the Assistant Manager I feel that the punishment awarded to him is out of proportion for the misconduct committed by him. In view of the circumstances of the case I consider that the period from 15th June 1965, the date of his dismissal to the date of the Award if treated as suspension without wages and other emoluments will be sufficient to meet ends of justice. Thus, the affected workman requires to be reinstated to his job as a miner immediately.

6. The employers had taken an objection that the dispute involved in the reference was an individual dispute and that the affected workman was not a member of Koyala Mazdoor Panchayat on or before the 15th June 1965. The affected workman, WW.1 has deposed that in the month of February or March, 1965 he had become a member of Koyala Mazdoor Panchayat. WW.3 is the Vice President of Koyala Mazdoor Panchayat since 1965. His evidence is that he enrolled the affected workman as a member of Koyala Mazdoor Panchayat in 1965 and that the counterfoil receipt dated 15th March 1965 issued to him is Ext. W.4 There is no cross-examination on this witness or on WW.1 that the employees of Jamadoba colliery were not members of Koyala Mazdoor Panchayat. There is absolutely no rebuttal evidence. Consequently, the objection of the employers is over-ruled.

7. I, therefore, hold that the dismissal of the affected workman, Shri Ramleo. Miner by the management of the Jamadoba colliery of Messrs Tata Iron and Steel Company Limited, with effect from the 15th June, 1965, was not justified and consequently, he is directed to be reinstated to his original job with immediate effect. The period from the 15th June,

1965 till the date of this Award will be treated as his suspension without wages and other emoluments. But the period will count for his service and for other purposes. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

Sd./- N. VENKATA RAO, Presiding Officer,
Central Govt. Industrial Tribunal, (No. 2) at Dhanbad.
[No. 2/27/66-LRIL]

New Delhi, the 3rd January 1969

S.O. 143.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Hyderabad, in the industrial dispute between the employers in relation to the Singareni Collieries Company Limited, Ramkrishnapur Division, Post Office Ramkrishnapur (Adilabad) and their workmen, which was received by the Central Government on the 23rd December, 1968.

BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL) AT HYDERABAD

PRESENT:

Sri Mohammad Najmuddin, M. A., B. L., Chairman, Industrial Tribunal, Andhra Pradesh Hyderabad.

INDUSTRIAL DISPUTE No. 8 OF 1968

BETWEEN

Workmen of Singareni Collieries Co. Ltd., Ramkrishnapur Division.

AND

Employers of Singareni Collieries Co. Ltd., Ramkrishnapur Division.

APPEARANCES :

None—for the workmen.

Sri Shyam Mohan, Personnel Officer, The Singareni Collieries Co. Ltd., Ramkrishnapur Division,—for Employers.

AWARD

The Government of India in its Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) had, by order No. 7/18/67-LRIL dated 3rd February 1968, referred this dispute to me for adjudication. The issue as per schedule annexed to the notification is this:—

Whether the management of the Singareni Collieries Company Limited was justified in removing Sri Varala Ramulu, Tunnel Mazdoor, R. K. 4 of Ramkrishnapur Division, from the services of the Company? If not, to what relief is the workman entitled, and from what date.

2. The Andhra Pradesh Colliery Mazdoor Sangh is party to the reference. The case of the claimant was sponsored by this Mazdoor Sangh. After the reference was received here, notice was given to the Mazdoor Sangh calling upon it to file statement of claims on behalf of the claimant. Four opportunities were given therefor. Despite it, the statement of claims was not filed. Next I called upon the Management to file statement by way of counter. It will be noted that the onus of proof under the issue in the reference is upon the Management. The Management filed counter. It was only thereafter that the claimant filed statement of claims after I had excused delay in filing the same.

3. The case of the claimant is that when he reported at the Company's Dispensary at Mandamarri, the Medical Officer there had declared him unfit for duty and that thereafter he went to the Government Hospital at Mancherial on 13th December 1966 and was treated there till 3rd March 1967 on which date he was found fit for duty by the Medical Officer at Mancherial. Here it should be stated that there are two separate dispensaries of the Company located within about two miles of each other, one being the dispensary of the Ramkrishnapur Division and the other being the dispensary for the Mandamarri Division. The Medical Officer of these two dispensaries of the Company is one and the same. Having regard to this fair proximity between the two dispensaries, the workmen of one division could report at the dispensary of the other division so as to suit their convenience. I have to explain this because in the statement of claims the claimant said that between 8th and 12th December 1966 he had attended the dispensary of Mandamarri

Division. The fact is that he did attend the Company's dispensary between 9th and 12th December. The further case of the claimant is that when on being found fit for rejoining duty by the Government Medical Officer at Mancherla, he reported back for duty, the Management had refused to take him back. The allegation is that the Management had thereby victimised him for his trade union activities. The prayer is that the Management may be directed to reinstate Ramulu with retrospective effect from 3rd March 1967, that being date on which he is said to have reported back to duty and when the Management is said to have illegally refused to allow him to resume duty.

4. The counter of the Management is that the claimant had reported at the Company's dispensary for treatment on 9th December, 1966, that he had discontinued attending there from onward 13th December and that as his whereabouts was not known and as his absence from duty had exceeded 10 days, the Management had taken action under Standing Order No. 16(16) and removed his name from the muster and had later terminated his services under Standing Order No. 11(c). It is denied that the Management had victimised the claimant for any trade union activity. In fact it is stated that Ramulu was not at all active in that behalf. It will be noted that the statement of claims was filed subsequent to the Management filing its counter. After the statement of claims was filed, the Management had filed a further counter reiterating what it had said in its earlier counter.

5. The case came up for enquiry this day the 23rd November 1968. Mr. Shyam Mohan the representative of the Management is ready with evidence to participate in the enquiry. None is present on behalf of the claimant. The claimant himself is absent. After the parties had filed pleadings I had posted the case for enquiry on 7th October 1968. On that day Mr. Narayan Reddy the General Secretary of the Mazdoor Sangh filed application for adjournment on the ground that the claimant was ill. Mr. Shyam Mohan the representative of the Management was present that day with evidence to participate in the enquiry. I had adjourned the case to 8th November at the request of Mr. Narayan Reddy. On 8th November Mr. Shyam Mohan was once again present but a telegram was received on behalf of the claimant to say that he was ill. Thereupon I adjourned the case to this day for enquiry, and the claimant was intimated about it by post through the Vice President of the Mazdoor Sangh who in that capacity is party to the reference. As I said, none is present today on behalf of the claimant to participate in the enquiry, nor is the claimant himself present. There is no communication from or on his behalf. I will proceed with the enquiry.

6. It will be seen that the onus of proof under the issue in the reference is on the Management. Mr. P. C. Tomar the Assistant Personnel Officer at Ramkrishnapur is examined as M.W.1, i.e., as witness for the Management. Exs. M1 to M6 are marked on its side. There is no cross-examination of M.W.1, much less any evidence on the side of the claimant. M.W.1 said that he knew the claimant Varala Ramulu and that he was working as Tunnel Mazdoor in the R. K. 4 mine. The witness said that Ramulu had reported sick on 9th December 1966 and attended the Company's dispensary at Ramkrishnapur on that date, that he attended the dispensary upto and including 12th December and that he had stopped doing so from onward 13th December. The witness went on to state that Ramulu did not report back to work and that thereafter his whereabouts was not known. Thereafter the Mine Manager at Ramkrishnapur removed Ramulu's name from the muster under Standing Order No. 16(16) of the Company. Next the witness proved the various documents filed through him. Ex. M1 dated 9th December 1966 is the medical certificate given by the Medical Officer, Ramkrishnapur Dispensary, to say that Ramulu was suffering from fever. Ex. M2 dated 23rd December is the report from the said Medical Officer addressed to the Manager, Ramkrishnapur Division, in which it is reported that Ramulu was not attending the dispensary from onward 13th December 1966. Seeing that Ramulu was not attending the Company's dispensary as above said and also seeing that he had not reported back to duty, the Manager put up notice Ex. M3 dated 25th December 1966 whereby he had declared Ramulu as absconding. Ex. M4 dated 6th January 1967 is show cause notice which the Manager had put up on the notice board calling upon Ramulu to explain why his services should not be terminated for the reason of being continuously absent from service for more than 10 days, and he was directed to appear at the enquiry to be held on 10th January 1967. This show cause notice was under Standing Order No. 16(16). M.W.1 explained that the said notice had to be put up on the notice board because Ramulu was not found in the Company's quarters. The witness went on to state that Ramulu did not turn up for the proposed enquiry, nor had he submitted any explanation. Thereafter the Manager had no option but to take further action, and having waited till 21st January 1967 he issued termination order Ex. M5 dated 21st January. The witness said that the Manager of the Ramkrishnapur Division was competent to remove Ramulu from service. The witness added that thereafter Ramulu did not turn up again for work. He stated that there was no question of victimisation. There remains the last document, Ex. M6. It bears the signature of Ramulu identified as such by M.W.1. That document does not bear a date, but as explained by M.W.1 Ramulu had presented it to the Manager on 3rd November 1967, and

the Manager had endorsed it to the witness because he was the Assistant Personnel Officer. Ramulu states in Ex. M6 that he was first entertained as coal filler in the Morgon Pit at Bellampalli in the year 1954. Therein Ramulu states that subsequent to the year 1954 he had been working in the various pits including those at Kothagudem and Yellandu and that he had discontinued employment on certain occasions. Lastly, he states therein that he had "discontinued my service at R. K. 4 on 1966". When the claimant stated as above, he presumably means to say that he has discontinued his service in the month of December 1966 because he had discontinued attending the Company's Dispensary from onward 13th December 1966. Lastly, Ramulu requests in that document that he may be paid whatever dues are owing to him.

7. It is clear from Exs. M1 to M6 and from the testimony of M.W.1 that the Management of the Company was justified in removing the claimant Ramulu from service which it did by order Ex. M5 dated 21st January 1967. It is an admitted fact, such being the admission in the claims statement itself, that Ramulu had been absent from duty from onward 13th December, 1966. Thereafter the Management had no means of knowing the whereabouts of Ramulu. It is stated in the statement of claims that the claimant had reported back to duty on 3rd March 1967, it being stated there that meanwhile he had been having treatment at the Government Dispensary at Mancherial. It may be that Ramulu was having treatment at the Government Dispensary at Mancherial till 3rd March 1967, but, as I said, the Management had no means of knowing the whereabouts of the claimant till that point of time or even earlier. There is no evidence that the claimant had reported to duty on 3rd March 1967 or that the Management had refused to allow him to return to duty. On the other hand M.W.1 said that subsequent to 13th December 1966 Ramulu never reported back to duty. The Management is not expected to wait endlessly for an employee to return back to duty. Meanwhile the Management had rightly taken action under its Standing Orders, the first step being under Standing Order No. 16(16) as per Ex. M3 dated 25th December 1966 and next under Standing Order No. 11(c) as per Ex. M5 dated 21st January 1967 by which his services were terminated. There is no merit in the allegation in the statement of claims that Ramulu was victimised.

8. In the result, my finding under the issue in the reference is that the action of the Management in removing Sri Varala Ramulu from service was justified. That being so, there is no relief to be granted to the claimant.

AWARD passed accordingly.

Given under my hand and the seal of the Tribunal, this the 23rd day of November, 1968.

M. NAJMUDDIN, Industrial Tribunal.

APPENDIX OF EVIDENCE

Witnesses examined for:

Workmen :—

NIL

Employers :—

M.W. 1; P.C. Tomar.

Documents exhibited for Workmen:

NIL

Documents exhibited for Employers:

- Ex.M1 : Medical Certificate dated 9th December 1966 given by the Medical Officer, Ramkrishnapur Dispensary to say that Ramulu was suffering from fever.
- Ex.M2 : Report from the Medical Officer, Ramkrishnapur Dispensary, dated 23rd December 1966.
- Ex.M3 : Notice dated 25th December 1966 declaring Ramulu as absconding.
- Ex.M4 : Show cause notice dated 6th January 1967.
- Ex.M5 : Termination order dated 21st January 1967.
- Ex.M6 : Letter dated nil from Ramulu presented on 3rd November 1967 to the Manager, Ramkrishnapur Division.

M. NAJMUDDIN, Industrial Tribunal.

[No. 7/18/67-LRII.]

S.O. 144.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal (No. 2), Dhanbad, in the industrial dispute between the employers in relation to the East Indian Coal Company Limited, Post Office Jealgora, District Dhanbad and their workmen, which was received by the Central Government on the 26th December, 1968.

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT
DHANBAD**

PRESENT:

Shri Nandagiri Venkata Rao, Presiding Officer.

REFERENCE NO. 104 OF 1967

In the matter of an industrial dispute under Section 10(1) (d) of the Industrial Disputes Act, 1947.

PARTIES:

Employers in relation to the East Indian Coal Company Limited, Post office,
Jealgora, District Dhanbad.

AND

Their workmen

APPEARANCES :

For the employers.—Shri S. S. Mukherjee, Advocate.

For the workmen.—Shri B. N. Sharma, President, Congress Mazdoor Sangh.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, 21st December 1968

AWARD

The Central Government, being of opinion that an industrial dispute exists between the employers in relation to the East Indian Coal Company Limited, Post office Jealgora, District Dhanbad and their workmen, by its order No. 2/4/66-LRII dated 8th February 1966 referred to the Central Government Industrial Tribunal, Dhanbad under Section 10(1) (d) of the Industrial Disputes Act, 1947 for adjudication the dispute in respect of the matter specified in the schedule annexed thereto. The schedule is extracted below:

SCHEDULE

“Whether the termination of services of Shri S. R. Tewary, Clerk, Accounts Office, with effect from the 2nd March, 1965, by the management of the East Indian Coal Company Limited was justified? If not, to what relief is the workman entitled?”

2. The Central Government Industrial Tribunal, Dhanbad registered the reference as reference No. 18 of 1966 on its file. Workmen filed their statement of demands. While it was pending before the Central Government Industrial Tribunal, Dhanbad, the proceeding was transferred to this Tribunal, by the Central Government by its order No. 3/25/67-LRII dated 8th May 1967. Consequently, the reference is renumbered on the file of this Tribunal as reference No. 104 of 1967. Employers filed their statement of demands.

3. Shri S. R. Tewary (hereinafter referred to as the affected workman) was a clerk in the Accounts Section of the Central office of East Indian Coal Company Ltd. By the letter dated 9-7-1965 his services were terminated with immediate effect alleging unauthorised absence from 2-3-1965 in violation of clause 27(16) of the Certified Standing Orders. These facts are not in dispute. The case of the workmen in brief is that the absence of the affected workman was due to his illness, that the clause of the Certified Standing Order has been applied illegally and wrongly and that the termination of services of the affected workman was illegal and unjustified. The employers filed their statement pleading *inter-alia* that the dispute involved in the reference was an individual dispute, that the employers were not aware if the affected workman was a member of the Congress Mazdoor Sangh, that the affected workman was a clerk in the Accounts Section of the Central Office and was not employed in any colliery and as such, the present reference was incompetent and that owing to continued absence from 2-3-1965 the dismissal of the affected workman was justified under clause 27(16) of the Certified Standing Orders. The workmen were represented by Shri B. N. Sharma, President, Congress Mazdoor Sangh and the employers by Shri S. S. Mukherjee, Advocate. On admission

by the employers, Exts. W1 and W2 and on admission by the workmen, Exts. M1 to M9 for the employers were marked. On behalf of the workman the affected workman was examined as WW.1 and Exts. W3 to W8 were marked. The employers examined a witness, MW.1 and marked Exts. M10 and M11.

4. The employers had taken a specific objection that the dispute involved in the reference was an individual dispute and not an industrial dispute. The employers also denied knowledge on their part that the affected workman was a member of the Congress Mazdoor Sangh, the union which sponsored the dispute, and put the workmen to strict proof of the same. The employers refused to participate in the conciliation proceedings stating that the union was not recognised by them. The solitary witness, WW.1 has not even a word in his evidence that he was a member of the Congress Mazdoor Sangh. There is no document produced in this respect either. Under these circumstances I have no option but to uphold the objection raised by the employers.

5. It is an admitted case that the affected workman was a clerk in the Accounts Section of the Central office of the employers. The Accounts Officer of the Central office is examined as MW.1. His evidence is that the employers own 4 collieries in Jharia and 4 in Magma fields, that each colliery has its own office and that the Central office correlates functions of all the colliery offices. This evidence is not controverted. The employers had taken an objection that the affected workman being a clerk in the Accounts Section of the Central office, was not an employee of any mine and as such, the present reference by the Central Government was incompetent. Under Section 2(a)(i) of the Industrial Disputes Act, 1947 the Central Government is the "appropriate Government" when the industrial dispute concerns any industry carried on by or under the authority of the Central Government or by..... a mine. In *Serajuddin & Company Vs. their workmen* (1962-I.L.L.J. 450) Gajendragadkar, J. (as he then was), having gone through the provisions of Section 2(a)(i), Section 2(j) and Section 2(k) of the Industrial Disputes Act, 1947 and Section 2(j) and Section 2(h) of the Mines Act, 1952 has held categorically that an industrial dispute between an employee engaged in the head office of a mine of the employer is not an industrial dispute concerning a mine. He further clarified that the office of the mine, even if situated at the surface of the mine is not necessarily a mine and the employee in the said office cannot necessarily be said to be a person employed in a mine. In this view the objection of the employers sustains and I hold that the Reference under consideration is not correct.

6. Admittedly, the affected workman did not attend to his duty on 1-3-1965 and sent an application, Ext. M1, expressing his inability to attend to his duty owing to illness. Nothing was heard by the employers from him till 25-3-1965. On 26-3-1965 the employers wrote a letter, Ext. M10 to the affected workman stating that after sending his letter, Ext. M1 on 1-3-1965 intimating his inability to attend office on that day on the grounds of alleged sickness, he did not turn up to join his duty nor any further application for leave had been received and advising him to report to their Senior Medical Officer immediately. They further informed him that in case of default disciplinary action would be taken against him. To this letter, Ext. M10 also the affected workman did not choose to send any reply. On 10-4-1965 the employer sent another letter, Ext. M2 to the affected workman calling upon him to show cause why his services should not be terminated. On 13-4-1965 the affected workman sent a letter, Ext. M3 in reply to Ext. M10 stating that as per his Doctor's advice he had to take rest for another fortnight. He prayed for excuse for his unwilling absence, but did not make any request for leave. The letter was accompanied by a certificate from a private medical practitioner of Jharia. Again on 22-4-1965 the affected workman sent one more letter, Ext. M4 also in reply to Ext. M10 saying that he was seriously ill and that by sending an ambulance to him he could be taken to colliery hospital for examination. He pleaded therein that the reason for his absence being beyond his control no disciplinary action could be taken against him. A week later he sent another letter, Ext. M5 on 29-4-1965 complaining that he was not allowed to resume his duties. According to MW.1 the affected workman reported at the office on 12-5-1965 when the form, Ext. M6 was delivered to him to get himself checked at the Central Hospital and that nothing was heard from the affected workman thereafter. The affected workman, WW.1 says that he went to the Central Hospital along with Ext. M6, that he was prescribed some tablets as seen from O.P.D. Ticket, Ext. W3, that he was advised to go to the Central Hospital after 4 weeks, that because of his acute suffering and because he could not financially afford to stay at Dhanbad for 4 weeks, he did not go back to the hospital after the 4 weeks as directed and that he sent his application, Ext. W4 dated 15-6-1965 for 4 months long leave to the Chief Mining Engineer under certificate of posting, Ext. W5. He further deposed that at Patna he was under the treatment of Dr. S. P. Tewari, that the Doctor gave him a certificate, Ext. W6, dated 26-8-1965 and that on 27-8-1965 he submitted another application Ext. W7 through post under certificate of posting, Ext. W8. MW.1 denies having received Ext. W4 or Ext. W7. The medical certificate, Ext. W6 is flatly denied and its genuineness is seriously challenged. Before the alleged medical certificate, Ext.

W.6 and the application, Ext. W.7 were brought into existence, the employers issued a letter, Ext. M7 dated 9-7-1965 terminating the services of the affected workman with immediate effect. The workmen have denied that the affected workman had received the letter, Ext. M7. However, it is admitted by him that he is dismissed from service and the reference itself says so. From the above admitted record it emerges that the affected workman having reported sick on 1-8-1965 absented himself without any information from 2-3-1965 to 13-4-1965 when he sent the letter, Ext. M3, from 29-4-1965 when he sent the letter, Ext. M5 to 12-5-1965 when he reported in the colliery and again from 13-5-1965 to 9-9-1965 when he sent the letter, Ext. M8 on which date the letter, Ext. M7 was issued terminating his services. During the above 3 periods neither he applied nor got any leave sanctioned. It follows that he was absent during the above long spells without permission or leave. The only question remains for consideration is whether he had satisfactory cause for so absents. The employers did not believe that the affected workman was sick and provided him facilities to get himself examined at the Central Hospital by issuing to him the form, Ext. M6. It is true that the employers did not hold any domestic enquiry before dismissing him for the misconduct. But when no domestic enquiry is held or the domestic enquiry held is improper the employers as well as the workmen are entitled to adduce before the Tribunal evidence to substantiate their respective cases. So it is to be seen now what evidence is brought on record on behalf of the workmen to show that the affected workman was sick during the periods and that it was a sufficient cause for his absents during the above 3 periods. Under clause 27(16) of the Certified Standing Orders continuous absence without permission and without satisfactory cause for more than 10 days is a misconduct for which an employee can be suspended, fined and dismissed from service. The case of the workmen is that the affected workman was sick and in order to prove it they relied upon Exts. W4 and W.6. Ext. W.4 is a copy of the letter said to have been sent by the affected workman to the Chief Mining Engineer and dated 15th May, 1965 stating that he went to the Central Hospital on 14th May, 1965, that he was advised to go to the hospital again after 4 weeks, that he was proceeding to Patna for treatment and that a long leave of 4 months should be granted to him. Ext. W.6 is said to be a medical certificate from Dr. S. P. Tewari of Patna. Both these exhibits were emphatically denied by the employers. So the onus was lying on the workmen to prove these exhibits. But Dr. Tewari is not examined. Regarding Ext. W4 a certificate of posting, Ext. W5 is produced. Even if Ext. W4 is held as proved, it does not in any way prove that the affected workman was actually under treatment of Dr. Tewari at Patna till 26th August, 1965. On this evidence it cannot be said that the affected workman had sufficient cause for absents himself from duty for more than 10 days or that his dismissal on that account was unjustified. From the letter, Ext. M7 dated 9th July, 1965 it emerges that the affected workman was dismissed from service with immediate effect, which means with effect from 9th July, 1965 and not with effect from 2nd March, 1965 as stated in the reference. Thus, for the period from 2nd March, 1965 to 8th July 1965 the affected employers. So the onus was lying on the workmen to prove these exhibits. But workman will be entitled to his wages and other emoluments, if permissible to him under law and rules.

7. For the above reasons I find that the termination of services of the affected workman, Shri S. R. Tewari, Clerk, Accounts Office with effect from the 9th July, 1963 by the management of the East Indian Coal Company Limited was justified, and, consequently, he is not entitled to any relief for the period subsequent to the 9th July, 1965. The award is made accordingly and submitted under Section 15 of the Industrial Disputes Act, 1947.

(Sd./-) N. VENKATA RAO,

Presiding Officer,

Central Govt. Industrial Tribunal,

(No. 2) at Dhanbad.

[No. 2/4/66-LRII.]

ORDER

New Delhi, the 1st January 1969

S.O. 145.—Whereas the Central Government is of the opinion that an industrial dispute exists between the employers in relation to the management of the Singareni Collieries Company Limited, Post Office Kothagudem Collieries (Andhra Pradesh) and their workmen in respect of the matters specified in the Schedule hereto annexed;

And Whereas the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by section 7A, and clause (d) of sub-section (1) of section 10, of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby constitutes an Industrial Tribunal with Shri Mohammad Najmuddin, as Presiding Officer with headquarters at Afzal Lodge, Tilak Road, Ramkote, Hyderabad-1, and refers the said dispute for adjudication to the said Industrial Tribunal.

SCHEDULE

Having regard to recommendations of the Wage Board for Coal Mining Industry at para 12 of Section 3 of Chapter XV of its Report and in view of the acceptance of the Board's recommendations by the Government *vide* their resolution No. WB-16(5)/66, dated the 21st July, 1967, whether the management of the Singareni Collieries Company Limited, Kothagudium (Andhra Pradesh) was justified in denying the payment of minimum wages to the apprentices? If not, to what relief are these workmen entitled?

[No. 7/19/68-LRII.]

BALWANT SINGH, Under Secy.

(Department of Labour and Employment)

New Delhi, the 4th January, 1969

S.O. 146.—Whereas by the notification of the Government of India in the Ministry of Labour, Employment and Rehabilitation (Department of Labour and Employment) No. S.O. 2510, dated the 5th July, 1968, the Central Government had declared the coal industry to be a public utility service for the purposes of the Industrial Disputes Act, 1947 (14 of 1947), for a further period of six months from the 8th July, 1968;

And, whereas the Central Government is of the opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a further period of six months from the 8th January, 1969.

[No. F. 1/88/68-LRI.]

New Delhi, the 6th January, 1969.

S.O. 147.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Arrah—Sasaram Light Railway Company and their workmen, which was received by the Central Government on the 18th December, 1968.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

REFERENCE NO. 15 OF 1968

PARTIES :

Employers in relation to the Arrah—Sasaram Light Railway Company.

AND

Their Workmen.

PRESENT : Shri Kamla Sahai—*Presiding Officer.*

APPEARANCES :

For the Employers :—Shri Ajit Roy Mukherjee, Advocate.

For the Workmen :—Shri P. P. Pathak, Vice-President.

STATE : Bihar.

INDUSTRY : RAILWAY.

Dhanbad, the 7th December, 1968

AWARD

Under order No. 2/26/67-LR/III dated the 24th February, 1968 the Central Government has made this reference to this Tribunal for adjudication of a dispute which has been described in the schedule as follows :—

SCHEDULE

"Whether the guards and other 'Continuous' Employees employed in the Loco Shed of the Arrah-Sasaram Light Railway Company Limited, are entitled for overtime wages whenever asked to do extra work? If so, what should be the criteria and quantum of such overtime?"

2. Both parties admit that the normal working hours of a Guard who is a 'continuous' employee are 257 hours in a month. In paragraph 4 of its written statement, the union named Bihar Martin's Light Railway Mazdoor Congress has given a list of 20 kinds of workers of the Loco-Shed who are called continuous workers. Its case is that the normal hours of working of workmen of these classes are 8 hours a day and that they would be entitled to overtime allowance for working for more than 8 hours a day. On the other hand, the company's case in paragraph 5 of its written statement is that the Loco-shed staff are also classified as 'continuous' workers, that their normal duty according to roster is of 8 hours a day but this can go up to 60 hours a week; they become eligible for overtime if they are required to work beyond 257 hours in a month. The company has produced the Service Regulations of Martin Light Railways (Ext. M1) Article 309(1) of these Regulations lays down the overtime allowance of "continuous" workers as follows :—

"The unit for calculation of overtime in a month. The maximum permissible hours of duty in a month is 257 (adopting a standard month of 30 days for the calculation of overtime). Staff will be eligible for overtime allowance for the number of hours worked in a month in excess of the maximum permissible hours, i.e., 257, at the rate of pay per hour". This article obviously controls the 'continuous' employees of the Loco-Shed.

The guards are entitled to mileage allowance under article 306 of the Service Regulations which reads :—

"306 Mileage Allowance to Running Staff of the Traffic Department :—

- (i) Mileage Allowance to Guard when working with trains guards will draw mileage allowance at the rate of Rs. 2.25 P. for every 100 miles. In addition they are eligible for Night passing allowance of Rs. 1.50 per night provided they leave their headquarters before midnight and return next day.
- (ii) Guards will draw mileage allowance at the rate of admissible for 150 miles a day for the following duties :—
 - (a) Working ballast trains whether loaded or empty or breakdown train for 8 hours or less. Any time in excess of 8 hours a day will be paid for at the rate of 25 miles an hour.

NOTE :—Mileage allowance will count from the time the train is booked to leave, to the time it is stabled". etc. etc.

4. Shri Pathak, who appeared on behalf of the union, was not quite sure of the interpretation of the last clause. He was however satisfied with the explanation which Shri Mukherjee gave on behalf of the Railway Company. He said that, "under Article 306(ii)(a) Guards are entitled to draw mileage allowance not only for working of ballast train but also for breakdown caused by accident to passenger trains and goods trains".

5. The present reference requires me to adjudicate and decide whether guards and other continuous employees employed in the Loco-Shed of the Arrah Sasaram Light Railway are entitled for overtime wages whenever they are asked to do extra work. Shri Mukherjee has raised a preliminary objection. He has argued that there was a settlement between the union and the company in the presence of the Conciliation Officer in 1967 and that that settlement is to remain in force for 4 years. In this connection, he

has drawn my attention to the strike notice (Ext. M2) given by the union. The 4th paragraph of this notice says,

"the employers are not supplying seasonal uniforms to the workmen of each category and other allowance such as dearness allowance relieving allowances, consolidated allowance, mileage T.A., night allowance, overtime etc., are very few in comparison with local offices".

Shri Pathak has argued that this is not one of the demands made by the union but is a part of the history. The settlement arrived at between the parties on the basis of the demands included in this strike notice cannot, therefore, be deemed to have settled the question of overtime allowance also. Shri Mukherjee has replied that all those matters which have been described in the preliminary paragraphs have also been included in the demands. It seems to me that his contention is correct. The union has put its demands after the words, "therefore the union's submission is that" but the very first demand after these words has been put in the following words:

"(1) the employers must have to revise the pay scales and other allowances"

The words which I have underlined show that the demands made by the union included the allowances referred to in the fourth preliminary paragraph.

6. The settlement (Ext. M4) is dated the 20th March, 1967. It is not disputed by Shri Pathak that this settlement was actually arrived at. The important part of the settlement reads as follows:—

.....the scales of pay and D.A. will be revised and brought to the same level as payable to the Bengal Railways staff (i.e. Howrah-Amta and Howrah-Sneakhala Light Railways) according to the final decision of Basu Award which is now before the Calcutta High Court. These revised scales of pay and D.A. will come into force over Arrah-Sasaram and Fatwah Islampur Light Railways from the 1st January, 1967. In the meantime the scales of pay will remain what they are now but the D.A. as an interim measure will be brought to the same level as is now being paid to the staff of the Bengal Railways under High Court Order with effect from 1st January, 1967. This agreement supersedes the Palit award and also all other agreements in this regard. This agreement will remain binding for a period of four years during which time the same service condition as applicable to the employees of Bengal Railways, will apply to the employees of these two Light Railways in Bihar.

7. The agreement thus covered all the demands made in the strike notice including the demand for overtime allowance. The management's witness No. 1, Sri K. Chakravarty, has stated that the rate of mileage was altered from 1.50 to 2.25 with effect from 1st January, 1967. He has not said that this was done due to the agreement but possibly the alteration was in accordance with the agreement.

8. According to Sec. 19(2) of the Industrial Disputes Act, a settlement of the kind arrived at in this case is to remain binding for such period as is agreed upon by the parties. Indeed, it continues to remain binding between the parties after the period agreed upon until the expiry of two months from the date on which a notice in writing of an intention to terminate the settlement is given by one of the parties to the other party to the settlement. In view of these provisions, the settlement is undoubtedly in force at present. It cannot be altered or modified in any way. I, therefore, hold that the reference is not valid. It is accordingly discharged.

9. This is my award. Let it be submitted to the Central Government under section 15 of the Industrial Disputes Act.

(Sd./-) KAMLA SAHAI, Presiding Officer.

[No. 2/26/67-LR.III.]

O. P. TAWAR, Under Secy.

(Department of Labour and Employment)

[Office of the Chief Labour Commissioner (Central)]

ORDERS

New Delhi, the 26th December 1968

So. 148.—Whereas an application has been made under Section 19(b) of the Payment of Bonus Act, 1965 by Messrs Manganese Ore (India) Ltd. in relation to their

establishments mentioned in the Schedule below for extension of the period for the payment of bonus to their employees for the accounting year ending on 31st March, 1968.

And whereas being satisfied that there are sufficient reasons to extend the time I have in exercise of the powers conferred on me by the proviso to clause (b) of Section 19 of the said Act read with the notification of the Government of India in the Ministry of Labour & Employment No. WB-20(42)/65 dated the 28th August, 1965, passed orders on 28th December, 1968 extending the period for payment of the said bonus by the said employer by 6 (six), months from the last date for payment of bonus under clause (b) of Section 19 of the Act.

Now this is published for information of the employer and all the employees of the said establishments.

THE SCHEDULE

Name and address of
the employer.

Establishments

Manganese Ore (India) Ltd.,
3, Mount Road Extension,
P.O. Box No. 34,
Nagpur.

As per list attached

Names and address of Mines

Name

Address

- | | | |
|---------------------|---|-----------------------------|
| 1. Gumgaon | } | P.O. Khara, |
| 2. Ramdongri | | Distt. Nagpur. |
| 3. Kandri | } | P.O. Kandri, |
| 4. Munsar | | Distt. Nagpur. |
| 5. Beldongri | } | P.O. Nagardhan, |
| 6. Lohdongri | | Via Ramtek, Distt. Nagpur. |
| 7. Satuk | } | P.O. Chikla, Via Tumsar, |
| 8. Chikla | | S.E. Rly., Distt. Balaghat |
| 9. Chikla Extensior | } | |
| 10. Sitasaongi | | |
| 11. Tirodi South | } | P.O. Tirodi, via Tumsar, |
| 12. Jamrapani | | S.E. Rly., Distt. Balaghat. |
| 13. Sitapatore | } | P.O. Sukli, Via Tumsar, |
| | | S.E. Rly., Distt. Balaghat. |
| 14. Tirodi North | } | P.O. Tirodi, Via Tumsar, |
| 15. Balaghat | | S.E. Rly., Distt. Balaghat. |
| 16. Ukwa | } | P.O. Bharweli, S.E. Rly., |
| | | Distt. Balaghat, |
| 17. Ramrama East | } | P.O. Ukwa, Tahsil Baihar |
| 18. Ramrama West | | Distt. Balaghat, |
| | | P.O. Saongi, S.E. Rly |
| | | Distt. Balaghat. |

[No. BA. 4(17)/68-LSI.]

New Delhi, the 1st January 1969

S.O. 149.—Whereas an application has been made under Section 19(b) of the Payment of Bonus Act, 1965 by Messrs Madanlal Kedia (employer) in relation to their establishments mentioned in the Schedule below for extension of the period for the payment of bonus to their employees for the accounting year ending on 31st December, 1967.

And whereas being satisfied that there are sufficient reasons to extend the time I have, in exercise of the powers conferred on me by the proviso to clause (b) of Section 19 of the said Act read with the notification of the Government of India in the Ministry of Labour & Employment No. WB-20(42)/65 dated the 28th August, 1965, passed orders on 30th December, 1968 extending the period for payment of the said bonus by the

said employer by 4(four) months from the last date for payment of bonus under clause (b) of Section 19 of the Act.

Now this is published for information of the employer and all the employees of the said establishment.

THE SCHEDULE

<i>Name and address of the employer(s)</i>	<i>Establishment(s)</i>
Shri Madanlal Kedia Rairangpur (Orissa).	Bhesrakacha Iron Mine

[No. BA6(9)/68-LSI.]

O. VENKATACHALAM,
Chief Labour Commissioner (Central).

(Department of Rehabilitation)

(Office of the Chief Settlement Commissioner)

New Delhi the 24th December 1968

S.O. 150.—In exercise of the powers conferred by section 4 of the Coir Industry Act, Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), the Central Government hereby appoints Smt. Jyotsna Khanna, I.A.S. Asstt. Chief Settlement Commissioner in the Rehabilitation Department of the Punjab Government as Settlement Commissioner in the State of Punjab for the purpose of performing, in addition to her own duties as Asstt. Chief Settlement Commissioner, Rehabilitation Deptt., Punjab, the functions assigned to a Settlement Commissioner by or under the said Act in respect of (i) agricultural lands and shops in any rural area including houses, cattlesheds and vacant sites forming part of the Compensation Pool and (ii) the properties referred to in the Notification of the Government of India in the Ministry of Works, Housing & Rehabilitation (Department of Rehabilitation) No. 3(37)/L&R-63-A dated the 5th March, 1964.

[No. 3(5)/L&R-67.]

JANKI NATH, Under Secy.

MINISTRY OF COMMERCE

New Delhi, the 31st December 1968

S.O. 151.—In exercise of the powers conferred by section 4 of the Coir Industry Act, 1953 (45 of 1953) read with sub-rule (1) of rule 5 of the Coir Industry Rules, 1954, the Central Government hereby makes the following further amendment to the Ministry of Commerce Notification No. S.O. 2672 dated the 31st August 1966, namely:—

For "Shri Sundaresa Thevar, Chairman, Panchayat Union, Pattukottai, Madras State, occurring at S. No. 2 of item (a) Growers of coconut and producers of husks and coir yarn",

the following shall be substituted, namely:—

"Shri C. Barnabas, B.A., B.L., Advocate, Poornagam, Henry Street, Ramayarpuram, Nagercoil".

[F. 21(1)-66-Tex(E)/Tex(D).]

A. G. V. SUBRAHMANYAM, Under Secy.

वाणिज्य मंत्रालय

नई दिल्ली 31 दिसम्बर, 1968

एस० ओ० 152—जटा नारियल उद्योग नियम, 1954 के नियम 5 के उपनियम (1) के साथ पठित जटा नारियल उद्योग अधिनियम, 1953 (1953 का 45) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार वाणिज्य मंत्रालय की अधि सूचना सं० का० आ० 2672 तारीख 31 अगस्त, 1966 में एतद्वारा निम्नलिखित अतिरिक्त संशोधन करती है, अर्थात्—

“मद (क) में नारियल के उत्पादक और भूसी और जटा नारियल तन्तु” के क्रम सं० 2 में आने वाले “श्री सुन्दरेस थेवर, अध्यक्ष, पंचायत संघ, पट्टूकोट्टई, मद्रास राज्य” के लिए,

निम्नलिखित प्रतिस्थापित किया जाएगा, अर्थात् :—

“श्री सी० वरनवास, बी० ए०, बी०एल०, अधिवक्ता, पूर्णगाम, हेनरी स्ट्रीट, रामवर्मापुरम, नागरकोइल” ।

[फा० 21(1)–66-टेक्स(ई)/टेक्स(डी)]

ए० जी० वी० सुब्रह्मण्यम्,

अवर सचिव ।

New Delhi, the 4th January 1969

S.O. 153.—The Central Government, having considered in consultation with the Forward Markets Commission, the application for recognition made under section 5 of the Forward Contracts (Regulation) Act, 1952 (74 of 1952), by the Hansi Punjab Commercial Exchange Private Limited, Hansi, and being satisfied that it would be in the interest of the trade and also in the public interest so to do, hereby grants, in exercise of the powers conferred by section 6 of the said Act, recognition to the said Exchange for a period of two years from the 13th January, 1969, upto the 12th January, 1971 (both days inclusive in respect of forward contracts in cottonseed.

2. The recognition hereby granted is subject to the condition that the said Exchange shall comply with such directions as may from time to time be given by the Forward Markets Commission.

[No. F. 34(21)-CG(FMC)/67.]

SURENDRA SINGH, Dy. Secy.

नई दिल्ली, 4 जनवरी, 1969

एस० ओ० 154.—हांसी पंजाब कार्मणिशयल एक्सचेंज प्राइवेट लिमिटेड, हांसी द्वारा मान्यता प्राप्त करने के लिए अग्रिम संविदा (विनियमन) अधिनियम 1952 की धारा 5 के अधीन दिए गए आवेदन पर वायदा बाजार आयोग के परामर्श सहित करने के पश्चात् और अपना यह समाधान हो जाने पर कि ऐसा करना व्यापार के हित में होगा तथा लोक हित में भी होगा केन्द्रीय सरकार उक्त अधिनियम की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त एक्सचेंज को विनौतियों के अग्रिम संविदाओं के सम्बन्ध में 13 जनवरी 1969 से 12 जनवरी 1971 तक की (जिसमें यह दोनों दिन सम्मिलित हैं) दो वर्ष की कालावधि के लिए एतद्वारा मान्यता अनुदत्त करती है ।

2. एतद्वारा अनुदत्त मान्यता इस शर्त के अध्वधीन है कि उक्त एक्सचेंज उन निदेशों का अनुपालन करेगा जो समय-समय पर वायदा बाजार आयोग द्वारा दिए जाएं।

[फा० सं० 34(21)-सी० जी० (वा० बा० आ०)/67.]

सुरेन्द्र सिंह, उप सचिव।

(Office of the Chief Controller of Imports and Exports)

ORDER

New Delhi, the 26th December 1968

S.O. 155.—M/s. The Fertilizer & Chemicals, Travancore Ltd., Udyogamandal, Kerala State were granted an import licence No. A/951188/62 dated 19th November, 1962 for Rs. 20,00,000/- (Rs. twenty lakhs only). They have applied for the issue of duplicate Exchange Copy of the said licence on the ground that the original has been lost. It is further stated that the original copy has been registered with Cochin Customs after utilising for Rs. 17,17,041.57, leaving a balance of Rs. 2,82,958.43.

In support of this contention, the applicant have filed an affidavit. I am accordingly satisfied that the original E.C. Copy of the said licence has been lost. Therefore in exercise of the powers conferred under sub-clause 9(cc) of the Import (Control) Order, 1955 dated 7th December, 1955, as amended the said copy of licence No. A/951188/62 dated 19th November, 1962 issued to M/s. Fertilizers & Chemicals Travancore Ltd., Always is hereby cancelled.

3. Duplicate copy for Exchange Purposes of the said licence is being issued separately to the licensee.

[No. Ch & Ph II(20)AM 63/LIID/RM 3/2224.]

G. D. BAHL,

Deputy Chief Controller of Imports & Exports.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 30th December 1968

S.O. 156.—In exercise of the powers conferred by sub-section 1 of section 21 of the Wakf Act 1954 (29 of 1954), read with the notification of the Government of India in the Ministry of Law (Legislative Department) Wakf Section No. 4(3)/67-Wakf, dated the 19th July, 1967, and in continuation of the Notification of the Government of India in the Ministry of Law (Legislative Department) Wakf Section No. 4(3)/67-Wakf, dated the 20th July, 1967, and the 22nd July, 1968, the Central Government hereby extends the term of appointment of Shri M. Mohibulla, I.A.S. (Retd.), as Secretary to the Punjab Wakf Board for a further period upto and inclusive of the 31st March 1969, on the terms and conditions as laid down in the erstwhile Punjab Government's Memo. No. 38(1)-31/64, dated the 4th July, 1964.

[No. F. 4(3)/67-Wakf.]

New Delhi, the 31st December 1968

S.O. 157.—In exercise of the powers conferred by sub-section (1) of section 4 of the Wakf Act, 1954 (29 of 1954), read with the notification of the Government of India, in the Ministry of Education No. 6(5)/66-Wakf, dated the 23rd December, 1966, issued under sub-section (i) of section 72 of the Punjab Re-organisation Act, 1966 (31 of 1966), the Central Government hereby makes the following amendment in the notification of the Government of India, in the Ministry of Law (Legislative Department) No. 6(5)/66-Wakf dated the 19th July, 1967, namely :—

In the said notification, for the figures, letters and word "31st December, 1968" figures, letters and words "31st March 1969 or till the survey work is completed, whichever is earlier" shall be substituted.

[No. 6(2)/68-Wakf.]

S. G. RASOOL, Officer on Special Duty (Wakf).

विधि मन्त्रालय]

(विधायी विभाग)]

नई दिल्ली, 30 दिसम्बर, 1968

एस० ओ० 158—भारत सरकार के विधि मन्त्रालय (विधायी विभाग) वक्फ अनुभाग अधिसूचना सं० 4(3)/67-वक्फ तारीख 19 जुलाई, 1967 के साथ पठित वक्फ अधिनियम, 1954 (1954 का 29) की धारा 21 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत सरकार के विधि मन्त्रालय (विधायी विभाग) वक्फ अनुभाग अधिसूचना सं० 4(3) 67-वक्फ, तारीख 20 जुलाई 1967 और 22 जुलाई 1968 के क्रम में केन्द्रीय सरकार श्री एम० मोहिबुल्ला, भा० प्र० से० (श्रवकाश प्राप्त) की पंजाब वक्फ बोर्ड के सचिव के रूप में नियुक्ति की अवधि तत्कालीन पंजाब सरकार के आपन सं० 38(1)-3 जे०/64 तारीख 4 जुलाई 1964 में यथा अधिकथित निबन्धनों और शर्तों पर 31 मार्च 1969 को सम्मिलित करते हुए अर कालावधि के लिए एतद्वारा विस्तारित करती है।

[सं० फा० 4(3)/67-वक्फ.]

नई दिल्ली, 31 दिसम्बर 1968

एस० ओ० 159—पंजाब पुनर्गठन अधिनियम, 1966 (1966 का 31) की धारा 72 की उपधारा (1) के अधीन निकाली गई भारत सरकार, शिक्षा मन्त्रालय की अधिसूचना सं० 6(5)/66-वक्फ, तारीख 23 दिसम्बर, 1966 के साथ पठित वक्फ अधिनियम 1954 (1954 का 29) की धारा 4 की उपधारा (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा भारत सरकार, विधि मन्त्रालय (विधायी विभाग) की अधिसूचना सं० 6(5)/66-वक्फ, तारीख 19 जुलाई 1967 में निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में अंकों, अक्षरों और शब्दों “31 दिसम्बर, 1968” के स्थान पर अंक, अक्षर और शब्द “31 मार्च, 1969 या जब तक सबक्षण कार्य समाप्त हो, जो भी पूर्वतर हो” प्रतिस्थापित किए जाएंगे।

[सं० 6(2)/68-वक्फ.]

एस० जी० रसूल,

विशेष कार्य अधिकारी (वक्फ)।

MINISTRY OF HOME AFFAIRS

New Delhi the 2nd January 1969

S.O. 160.—In exercise of the powers conferred by section 3 of Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government hereby specifies the following offences as the offences which are to be investigated by the Delhi Special Police Establishment, namely:—

- (a) Offences under section 47 and 55 of the Bihar and Orissa Excise Act, 1915 (Bihar and Orissa Act 2 of 1915).
- (b) Attempts, abetments and conspiracies in relation to or in connection with one or more offences mentioned in clause (a) and any other offence committed in the course of the same transaction arising out of the same facts.

[No. F. 228/8/67-AVD-II.]

R. C. JOSHI, Under Secy.

गृह मंत्रालय

नई दिल्ली, 2 जनवरी 1969

एस० ओ० 161.—दिल्ली विशेष आरक्षी स्थापना अधिनियम (दिल्ली स्पेशल पुलिस इस्टैबलिशमेंट एक्ट) 1946 (1946 का 25) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, केन्द्रीय सरकार एतद् द्वारा निम्नलिखित अपराधों को ऐसे अपराधों के रूप में उल्लिखित करती है जिनका अन्वेषण दिल्ली विशेष आरक्षी स्थापना द्वारा किया जाना है, अर्थात्:—

- (क) बिहार तथा उड़ीसा उत्पादन शुल्क अधिनियम, 1915 (1915 का बिहार तथा उड़ीसा अधिनियम 2) की धारा 47 तथा 55 के अधीन आने वाले अपराध;
- (ख) खण्ड (क) में उल्लिखित एक या अधिक अपराधों के बारे में या उनके सम्बन्ध में किये जाने वाले प्रयत्न दुष्प्रेरण तथा षड्यन्त्र और उसी कार्य-सम्पादन की अवधि में किये गये उन्हीं तथ्यों से उत्पन्न होने वाला कोई अन्य अपराध।

[सं० 228/8/67-प्र० सं० प्र० (2).]

आदेश

एस० ओ० 162.—दिल्ली विशेष आरक्षी स्थापना अधिनियम (दिल्ली स्पेशल पुलिस इस्टैबलिशमेंट एक्ट) 1946 (1946 का 25) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार दिल्ली विशेष आरक्षी स्थापना के सदस्यों की शक्तियों तथा क्षेत्राधिकार को एतद् द्वारा बिहार राज्य पर भी नीचे निर्दिष्ट अपराधों में से किसी भी अपराध के अन्वेषण के लिए लागू करती है, अर्थात्:—

- (क) बिहार तथा उड़ीसा उत्पाद शुल्क अधिनियम, 1915 (1915 का बिहार तथा उड़ीसा अधिनियम 2) की धारा 47 तथा 55 के अधीन आने वाले अपराध;
- (ख) खण्ड (क) में उल्लिखित एक या अधिक अपराधों के बारे में या उनके सम्बन्ध में किये जाने वाले प्रयत्न दुष्प्रेरण तथा षड्यन्त्र और उसी कार्य-सम्पादन की अवधि में किये गये उन्हीं तथ्यों से उत्पन्न होने वाला कोई अन्य अपराध।

[सं० 228/8/67-प्र० सं० प्र० (2).]

रमेश चन्द्र जोशी, अव्वर सचिव।

New Delhi, the 3rd January 1969

S.O. 163.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the "Tripura Employees (Revision of Pay and Allowances) Rules 1963", namely:—

1. These rules may be called the "Tripura Employees (Revision of Pay and Allowances) Amendment Rules 1968".

2. Paragraph 1 of this Ministry's Notification No. 2/17/67-HMT(ii) dated the 25th November, 1968 shall be replaced by the following:—

1. These rules may be called the "Tripura Employees (Revision of Pay and Allowances) Amendment Rules, 1968".

3. Existing entries numbered 35 and 36 in para 2(ii) under the heading "Animal Husbandry Department (Erstwhile Tripura Territorial Council)" inserted *vide* this Ministry's Notification No. 2/17/67-HMT (II) dated the 9th May, 1967, shall be renumbered as 37 and 38 respectively.

4. Existing entry numbered 37 in para 2 (v) under the heading "Animal Husbandry Department, erstwhile Territorial Council Tripura" in this Ministry's Notification No. F. 2/17/67-HMT (ii) dated the 25th November, 1968 shall be renumbered as 39.

5. Existing entries in para 2 (viii) in this Ministry's Notification No. 2/17/67-HMT (ii) dated the 25th November, 1968 shall be replaced by the following :—

(viii) Under the heading "Education Department, erstwhile Territorial Council Tripura" in column 3, against item No. 4, the following shall be inserted in addition to the existing entry :—

"EB after 10th and 18th stages".

[No. 2/17/67-HMT.]

R. C. GUPTA, Under Secy.

New Delhi, the 3rd January 1969

S.O. 164.—In exercise of the powers conferred by sub-section (5) of section 8 of the Central Sales Tax Act, 1956 (74 of 1956), the Central Government hereby rescinds the Notification of the Government of India in the Ministry of Home Affairs No. S.O. 3531 dated the 27th September, 1967, published in the Gazette of India, Part II, Section 3, sub-section (ii), dated the 7th October, 1967.

[No. F. 16/21/67-UTL.]

P. N. KAUL, Dy. Secy.

